



City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Work Session - Final City Council

Tuesday, April 2, 2019

3:00 PM

City Council Chambers

630 E. Hopkins - Work Session

I. Call To Order

II. Roll Call

1. Receive a staff presentation, and hold discussion, regarding a proposed update to Chapter 18, Article 3 - Food Establishments and Food Vending Machines of the San Marcos City Code, and provide direction to Staff.
2. Receive a Staff presentation and hold discussion regarding proposed amendments to Chapter 38 - Fire Prevention and Protection of the San Marcos City Code of Ordinances, and provide direction to Staff.
3. Receive a Staff presentation regarding the Sustainability and Clean Air Initiative for the City of San Marcos, and provide direction to the City Manager.
4. Receive a Staff presentation and hold discussion regarding shared mobility platforms, specifically dockless electric scooters, and provide direction to Staff.

EXECUTIVE SESSION

5. Executive Session in accordance with Section 551.087, Economic Development and Section 551.071, Consultation with Attorney, to receive a staff briefing and deliberate regarding the creation of the Hays County Municipal Utility District No. 8.

III. Adjournment.

POSTED ON WEDNESDAY, MARCH 27, 2019 AT 4:45PM

JAMIE LEE CASE, CITY CLERK

Notice of Assistance at the Public Meetings

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Legislation Text

File #: ID#19-037, **Version:** 1

AGENDA CAPTION:

Receive a staff presentation, and hold discussion, regarding a proposed update to Chapter 18, Article 3 - Food Establishments and Food Vending Machines of the San Marcos City Code, and provide direction to Staff.

Meeting date: April 2, 2019

Department: Neighborhood Enhancement - Environmental Health

Amount & Source of Funding N/A

Fiscal Note:

Prior Council Action: The original food code amendments were passed in 2003. A Council work session was held on August 21, 2018.

City Council Strategic Initiative: N/A

Comprehensive Plan Element (s):

☒ Not Applicable

Master Plan: N/A

Background Information:

The state law referred to as the Texas Food Establishment Rules (TFER) were revised in 2015. The City of San Marcos Environmental Health Division proposes changes to our local code of ordinances, food establishments section, to better align with the current state law. There is no redline of the existing code. The new code is basically a complete rewrite.

Council Committee, Board/Commission Action: N/A

Alternatives:

No local amendments and utilize state law only

Recommendation:

Recommend approval of the local amendments as proposed

Texas Food Establishment Rules

COSM COMPLIANCE TO CURRENT REGULATIONS AND STATE LAWS

Texas Food Establishment Rules

STAFF PROVIDED UPDATE TO COUNCIL
DURING THE AUGUST 21, 2018 WORK
SESSION ON THE PROCESS OF AMENDING
THE COSM FOOD ORDINANCE TO REFLECT
THE CURRENT STATE FOOD PROTECTION
LAWS KNOWN AS THE TEXAS FOOD
ESTABLISHMENT RULES

THE OBJECTIVE...

Transitioning to new code

- ▶ Adhere to the State of Texas Food Establishment Rules effective October 2015 (Minimum Requirements by State Law)
- ▶ Streamline COSM Food Ordinance
- ▶ Create local amendments to clarify vague language in state code
- ▶ Innovation at work by providing permitting processes that meet the specific needs of the community
- ▶ Improve the Customer Experience by streamlining processes while maintaining food safety
- ▶ Provide education and outreach to our customers

Food Establishment Types

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- ▶ Fixed food establishments
 - restaurants, retail food stores, and bars
- ▶ Mobile food units
 - food trucks, trailers, and push carts
- ▶ Temporary food establishments
 - single events, festivals, and celebrations
 - operates no more than 14 consecutive days

Food Establishment Types

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▶ Cottage Kitchens

- at home production of non-potentially hazardous foods such as breads, cakes, pastries, and canned jams or jellies

▶ Farmer's Markets

- a designated location used primarily for the distribution and sale of food directly to consumers by farmers and other producers.

COSM 2018 Permits

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- ▶ Fixed Establishments = 376 (Inspected twice a year)
- ▶ Mobile = 34 (Inspected twice a year)
- ▶ Temporary Food Establishments 2018= 708 (Inspected case by case)
- ▶ Cottage Food Industry = Unknown-No Permit is Required
- ▶ Farmer's Markets = 3 (Inspected minimum of twice per year)

State Code & Local Code

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▶ State code

- mandated by law: Health and Safety Code; Texas Administrative Code

▶ Local code

- can be more restrictive than state code, but not less restrictive
- modifications that achieve same results of state code can be addressed through variances (Ex: Dining with Dogs)

THE APPROACH...

COMMUNITY ENGAGEMENT INITIATIVES

- ▶ Multiple Stakeholder Meetings | December 2017 & January 2018
- ▶ Communications Press Release | January 2018
- ▶ City Website Updates | January 2018
- ▶ Multiple Health Open Houses | February 2018
- ▶ Health & Community Committee | May 2018
- ▶ Council Work Session | August 2018
- ▶ Recent stakeholder meetings
- ▶ Revised draft food ordinance on city website for comment

Code Recommendations

Changes...Clarifications...Variances...Amendments

Codes: Fixed Establishments

Item	State	Current Local	Proposed Local
1	Certified Food Manager on duty or equivalent	Certified Food Manager on duty or equivalent	Clarification: One Certified Food Manager for each location
2	Food Handler Card required within 60 days	Food Handler Card required on Day 1	Amendment: Requesting 45 days to obtain Food Handler Card
3	Food Handler Card kept on site	Food Handler Card kept on each person	Amendment: Food Handler Card available upon request

Codes: Mobile Food Units

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Item	State	Current Local	Proposed Local
1	Be readily moveable-no power, water, or wastewater connections	Be readily moveable-no power water, or wastewater connections	Variance: Allow electrical connection when in operation
2	Designated central prep facility and copy of last inspection report	Designated central prep facility required	Clarification: Provide clear definition/identification
3	Food Protection Manager Certification	Food Protection Manager Certification	Clarification: One per truck or location
4	Food Handler for employees within 60 days	Food Handler on Day 1	Amendment: 45 days and available upon request
5	Restrooms for employees conveniently located and accessible to employees during all hours of operation	Follow State	Within 300 feet or conveniently located as determined by the health authority
6	No restriction on vending from a public place	Parks Ordinance has restrictions in place but not referenced	Clarification: Current restriction on vending in parks in separate code

Codes:

Temporary Food Establishments

Item	State	Current Local	Proposed Local
1	Food not prepared on site or requiring extensive preparation at a licensed food establishment	Follow State	No Change
2	May be required to have food handler	Required Day 1	Amendment: May be required depending on food type
3	Permitted for Max 14 consecutive days- No limit to number of events	Permitted for Max 14 consecutive days- No limit to number of events	Amendment: Limit number of events to 12
4	No Annual or long-term permits	No Annual or long-term permits	Variance: Create provisions for government, non profits, and school programs

Codes: Cottage Food Industry

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Item	State	Current Local	Proposed Local
1	No permit required	Follow state	No change
2	Labeling of ingredients is required	Follow state	No change
3	Food must be sold or given by the preparer	Follow state	No change

Codes: Farmers Market

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Item	State	Current Local	Proposed Local
1	Allows permitting of potentially hazardous foods (TCS Foods) e.g., cut melons, frozen meat	Allows permitting of potentially hazardous foods (TCS Foods)	Amendment: Permit required for potentially hazardous foods (TCS Foods)
2	Food Handler not stipulated	Required	Amendment: Food Handler if required to permit
3	Hand & ware washing station not stipulated	Hand & ware washing station not stipulated	Amendment: Treat as temp food permit
4	No requirements for self serve	No requirements for self serve	Amendment: Unattended self serve not allowed

Permit Fees

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Item	Permit	Current	Proposed	Notes
1	Food Operation, Temp Food, and Other Fees:			
2	Food Handler Training	\$15.00	Eliminate	Cannot offer local training
3	Choking Poster (Heimlich)	No Charge	Eliminate	No longer required by state code
4	Central Prep Facility Permit	N/A	\$50.00	Covers inspection
5	Annual Temporary	N/A	No Fee	Government, school districts, non profits
6	Expedited Permit	N/A	\$50.00	For permits submitted < 7 days
7	Seasonal Permit	N/A	\$101.50	Special conditions, longer than temporary but less than annual

Permit Fees

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Permit	Current	Proposed	Notes
Farmers Market	\$101.50	\$10.00	Permits only for vendors selling potentially hazardous foods (TCS foods)

Seasonal Food Permit (NEW)

An individual permit with special conditions

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- ▶ Bridges the gap between temporary and annual permitting
- ▶ Duration determined by health authority
- ▶ Duration not to exceed 270 days in a calendar year
- ▶ May limit menu items that can be prepared or sold
- ▶ May limit permit to specific days or dates of operation (e.g., Fridays)
- ▶ May waive certified food protection manager based on risk
- ▶ Examples include concession stands, summer school feeding program, fixed establishment special events, fish Fridays for Lent

Next Steps...

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- ▶ Adopt local ordinance that references the state code...1st reading April 2019
- ▶ Develop outreach plan with Communications/Intergovernmental Relations department
- ▶ Complete online permitting and inspection processes through MyPermitNow.org

- ▶ Certified Food Protection Manager and Food Handler training and testing available in classroom or online by visiting www.dshs.texas.gov/food-handlers or www.dshs.Texas.gov/food-managers

Questions?

COMMUNITY ENGAGEMENT FEEDBACK

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- ▶ Initial proposed fees were too high.
- ▶ Concerns about certified food manager requirements
- ▶ Concerns about local produce being sold to restaurants
- ▶ Requirement for mobile food units to obtain a temporary permit
- ▶ Are mobile food units required to move each day
- ▶ Samples at cook off events
- ▶ Concerns regarding limiting the number of temporary events
- ▶ A process for annual permits related to non profit/government events

Solutions for Local Organizations

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- ▶ Event Coordinator—Allows for 501c3's to obtain permits for participants
- ▶ Cottage Kitchen—An annual permit is issued covering all Fridays
- ▶ Downtown Association—Third Thursday required adjustments for 501c3 permits, food manager for event
- ▶ School District—Annual permit for school feeding program
- ▶ Cook Off Events—On the spot permitting, and 501c3 permits
- ▶ Sights and Sounds—Batch permitting and meetings with participants
- ▶ Dining with Dogs—variance for companion animals on outdoor patios

ORDINANCE NO. 2019- _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, UPDATING AND REVISING CHAPTER 18, ARTICLE 3, FOOD ESTABLISHMENTS AND FOOD VENDING MACHINES, OF THE CITY CODE BY REPEALING THE CURRENT PROVISIONS AND REPLACING THEM WITH PROVISIONS CONSISTENT WITH STATE LAW GOVERNING FOOD ESTABLISHMENTS; INCLUDING PROCEDURAL PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

1. City staff has recommended that the Food Establishments and Vending Machines Ordinance, Chapter 18, Article 3, be updated to reflect changes in state laws and be streamlined to provide those citizens and businesses impacted by the Ordinance with a clear understanding of the regulations intended to promote food safety.

2. The City Council wishes to implement the recommendations of City staff.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Chapter 18, Article 3, Food Establishments and Food Vending Machines is hereby repealed and replaced with the following:

ARTICLE 3. - FOOD ESTABLISHMENTS

DIVISION 1. GENERALLY

Secs. 18.061—18.085. - Reserved.

DIVISION 2. FOOD ESTABLISHMENTS

Sec. 18.086. Purpose.

The purpose of this division is to protect the public health by establishing uniform requirements for food establishments.

Sec. 18.087. Definitions.

In this division:

(A) Except as provided in Subsection (B), a term defined by the most current state rules has the same meaning in this chapter.

(B) In this chapter:

(1) **AGRICULTURAL PRODUCT** means produce, meat, fish, honey, dairy, seeds, live

plants intended for food production, and compost products produced by a farmer.

- (2) **BAKED GOODS** means cookies, cakes, breads, Danishes, donuts, pastries, pies, and other items that are prepared by baking in an oven. A baked good does not include a final baked food product that is considered a Time/Temperature Control for Safety (TCS) food item.
- (3) **BONA FIDE EDUCATIONAL PURPOSE** means providing cooking demonstrations solely for the purpose of informing, training, or educating persons about how to prepare foods, or providing samples in order to inform persons of the quality and characteristics of the sample, and is not done in conjunction with the sale of food or food products.
- (4) **CERTIFIED FARMERS' MARKET** means a farmers' market that has been certified by the Texas Department of Agriculture.
- (5) **CONCESSION STAND** means a food establishment operated by a city or county, a non-profit organization, or public school district from which "limited foods" are served during athletic or entertainment events.
- (6) **DINING WITH DOGS** means a variance granted by the health authority allowing dogs to be present at outside patios and outside dining areas of a food establishment.
- (7) **FARM PRODUCE** means herbs and spices in their natural or dried state, vegetables, fruits, unshelled nuts, berries, grains, honey, watermelons and other melons, and cantaloupes in their natural state.
- (8) **FARMERS' MARKET** means a designated location used primarily for the distribution and sale directly to consumers of food by farmers and other producers.
- (9) **FARMERS' MARKET VENDOR** means a person or entity that produces agricultural products by practice of the agricultural arts upon land that the person or entity controls.
- (10) **FOOD ESTABLISHMENT** means any location or entity that is fixed, mobile, seasonal, or temporary that is required to have a food permit.
- (11) **FOOD ESTABLISHMENT RULES** means the provisions of the most currently adopted State of Texas laws and, or, rules as amended by The Executive Commissioner of the Health and Human Services Commission regarding the regulation of food establishments, and the most current local amendments as adopted by the City of San Marcos.
- (12) **FOOD TRUCK PARK** means a business venture on public or private property designated to accommodate two or more food trucks as a primary land use.
- (13) **FOOT PEDDLER** means a restricted mobile food unit where only prepackaged food items, from an approved source are acquired. All item storage and vending must occur from a single conveyance device and meets the same requirements for mobile food units. A foot peddler permit is a restricted unit limited to one portable ice chest, cooler, case or unit per permit, capable of being carried by one person.
- (14) **HEALTH AUTHORITY** means the director of the department, or authorized representative, responsible for the regulation of food establishments in the City of

San Marcos.

- (15) LIMITED FOODS means foods requiring limited handling and preparation and that may be held at a minimum temperature of 135°F for hot holding and service or maintained at 41°F or below for cold holding and service.
- (16) OWNER is a license holder/permit holder or an entity that is legally responsible for the operation of the food establishment such as the owner, or the owner's agent, or other designated person or the person reasonably in charge of the establishment.
- (17) PUSH CART means a non-motorized unit that must be maneuverable by one or two persons maximum, when fully loaded and must adhere to the requirements outlined for a mobile food unit-pushcart.
- (18) SAMPLING means the demonstration or promotion of a food via offering a small serving of the food product which may not consist of a whole meal, an individual portion, or a whole sandwich to the general public.
- (19) SEASONAL FOOD ESTABLISHMENT means a food establishment that operates for a period of time as determined by the health authority, but not to exceed 270 days within a calendar year.
- (20) SERVICING AREA means a base location at a permitted fixed food establishment to which a mobile food unit or transportation vehicle returns daily for such things as vehicle cleaning, discarding liquid or solid wastes, refilling water tanks and ice bins, and boarding food. No food preparation, service or utensil/ware washing is conducted at a Servicing Area.
- (21) SINGLE CONVEYANCE DEVICE means a cooler, small ice chest or any other container or device light enough for an individual food peddler to carry when fully loaded.
- (22) TEMPORARY FOOD ESTABLISHMENT shall mean a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single special event or celebration.
- (23) UNSAFE FOOD means food that is adulterated or poisonous and harmful to health according to the state rules.

Sec. 18.088. Adoption of state health rules.

The City of San Marcos adopts by reference the provisions of the current laws and rules of the State of Texas regarding the regulation of food establishments. Any amendments or changes in current state laws and rules of the State of Texas regarding the regulation of food establishments shall be adopted by reference unless deemed to be in conflict with local ordinances or this chapter and such conflict does not constitute a violation of state law.

Sec. 18.089. Compliance required.

- (A) A person may not manufacture for supply, possess with intent to supply, display, sell, or supply, with or without charge, any food that is unsafe or misbranded.

- (B) All food shall be prepared, packaged, transported, and supplied in compliance with this chapter.
- (C) A person operating a food establishment, vending machine, bed and breakfast limited, mobile food establishment, food processing plant, seasonal food establishment, self-service food market, central preparation facility, temporary event, farmers' market, or farmers' market vendor booth shall comply with this chapter unless exempt pursuant to state law.
- (D) Injunctions. In addition to subsection (A-E) of this section, the regulatory authority may seek to enjoin violations of this division with actions specified in Section 1.015 of the City of San Marcos Code of Ordinances.
- (E) The health authority may adopt additional requirements not specified in this chapter as are reasonably required in the health authority's professional judgement, and authorized by law, to protect against health hazards or nuisances. When the health authority reasonably determines as a matter of professional judgement that no health hazard or nuisances will result from a particular activity or method of conduct, the health authority may waive or modify requirements of this chapter.

Sec. 18.090. Service of notice.

- (A) The health authority may serve a notice required by this chapter by:
 - (1) Personal delivery to the permit holder, person in charge, or owner; or
 - (2) Registered or certified mail, return receipt requested, to the last known address of the permit holder responsible party, and property owner.
- (B) The health authority shall retain in its records a copy of the notice.

Sec. 18.091. Hearings.

- (A) The health authority shall conduct a hearing under this chapter at a time and place determined by the health authority.
- (B) The health authority shall:
 - (1) Make and record findings based on the evidence presented at the hearing;
 - (2) Affirm, modify, or rescind the order considered at the hearing; and
 - (3) Provide a written decision to the permit holder.

Sec. 18.092. Permit Required.

- (A) A person must hold a permit issued by the health authority to operate a food establishment.
- (B) A person must hold a food establishment permit issued by the health authority to operate a group residence, boarding home, or congregate living facility with occupancy for 16 or more residents when food is provided, stored, or prepared onsite, or prepared by a third party operator or facilitator.

- (C) A vending machine that only dispenses non-time/temperature control for safety food is not considered a food establishment and does not require a permit.
- (D) A person must comply with the requirements of this chapter to receive or retain a permit.
- (E) A permit issued under this chapter is not transferable.
- (F) The health authority may cite, suspend operations, or suspend utilities against the person or business that is operating a food establishment that does not have a current or valid food permit.

Sec. 18.093. Permit Application.

- (A) A person who seeks to operate a food establishment must submit to the health authority a written or electronic application for a permit on a form provided by the health authority. The application must include:
 - (1) The name and address of the applicant;
 - (2) The location and type of the proposed food establishment;
 - (3) The name of the person responsible for the proposed food establishment and the person's identification number as shown on a government-issued identification document;
 - (4) Proof of a current State of Texas Sales Tax Permit for the physical location for which the permit is being sought or documentation verifying that the applicant has applied for the permit with the State of Texas;
 - (5) Other information reasonably required by the health authority; and
 - (6) The electronic acknowledgment or signature of the applicant.
- (B) An applicant for a food establishment permit must submit the application to the health authority not later than the 7th business day before the date for which the permit is sought. Processing of any application submitted less than 7 days for which the permit is sought may be charged an additional expedited processing fee.
- (C) Before approving or disapproving an application for a permit, the health authority may inspect the proposed food establishment to determine whether it complies with this chapter.
- (D) If the health authority determines that the proposed food establishment does not comply with this chapter, the health authority shall:
 - (1) Deny a permit to the applicant; or
 - (2) Issue a permit to the applicant that is subject to appropriate conditions.
- (E) The health authority may modify or remove a condition to a permit issued under Subsection (D)(2) after a re-inspection.
- (F) A permit is void if the applicant obtains the permit by providing false information on the application. Failure to provide all required information, fees, or falsifying information provided on the application may result in the denial of the application or revocation of a

previously approved permit. The denial or revocation is in addition to other penalties provided for under section 18.089.

- (G) Issuance. The regulatory authority will issue a permit to the applicant if its inspection reveals that the proposed food establishment meets all requirements of this division.

Sec. 18.094. Variances.

- (A) The health authority may grant a variance by modifying or waiving a local requirement of this chapter if the health authority determines that a health hazard will not result from the issuance of a variance.
- (B) A person requesting a variance must provide the following information to the health authority:
 - (1) A description of the requested variance from the local requirement;
 - (2) A citation to the relevant section of this chapter;
 - (3) A description of how potential health hazards will be prevented if the variance is granted; and
 - (4) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant rule sections will be alternatively addressed by the proposal.
- (C) If the health authority grants a variance, the health authority shall retain in its records the information required by Subsection (B).
- (D) Any variance request to modify or waive a state rule will follow the variance process outlined in the most current state rules.

Sec. 18.095. Permit expiration.

A permit issued under this chapter expires one year after the date it is issued, except that a permit for a temporary food establishment, seasonal food establishment, or a permit subject to conditions expires on the date indicated on the permit.

Sec. 18.096. Permit to be posted.

The permit holder or person in charge of a food establishment shall post a permit as required by the most current state rules, clearly visible to the general public and to patrons.

Sec. 18.097. Review of plans for food establishment permit.

- (A) *Submission.* Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted for use as a food establishment, properly prepared plans and specifications for the construction, remodeling, or conversion shall be submitted to the health authority for review and approval before construction, remodeling, or conversion begins. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work

areas and the type and model of proposed fixed equipment and facilities. The health authority will approve the plans and specifications if they meet the requirements of this division. No food establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the health authority.

- (B) A person may not construct, remodel, or renovate a food establishment unless the health authority has approved the building plan.
- (C) *Pre-operational Certificate of Occupancy (CO) inspection.* Whenever plans and specifications are required by subsection (A) of this section to be submitted to the health authority, the health authority shall inspect the food establishment prior to beginning operation to determine compliance with the approved plans and specifications and with the requirements of this division.

Sec. 18.098. Food manager certificate required.

- (A) Food manager certificates must be assigned to one permit by the owner or responsible party and may not be shared between different permits or locations.
- (B) A food manager certificate may not be required for:
 - (1) Certain types of food establishments deemed by the health authority to pose minimal risk of causing, or contributing to, foodborne illnesses based on the nature of the operation and extent of food preparation; or
 - (2) A food processing plant that is inspected at least once each week by a state or federal food sanitation inspector or that only stores prepackaged food that is not time/temperature control for safety; or
 - (3) A temporary food establishment.
- (C) The person in charge shall have available all food manager certificate(s) on site and shall produce them upon request from the health authority.
- (D) The health authority reserves the right to require food manager certificates for a food establishment in order to protect the health and safety of the public.

Sec. 18.099. Food handler training certification required.

- (A) Upon request by the health authority, a person operating a food establishment shall provide a list of all food handlers employed by the food establishment along with the current, valid certification document verifying each listed person possesses a current food handler certification.
- (B) A person employed at a food establishment shall obtain a food handler certificate within 45 calendar days of employment.

Sec. 18.100. Permit fees.

- (A) An applicant shall pay the associated permit fee, except the permit fee may be waived

for a food establishment that is:

- (1) An organization that is considered nonprofit by Internal Revenue Service regulations or otherwise determined to be nonprofit by the health authority that has applied for permits where all proceeds will be donated or given to the 501(c)(3) or a 501(c)(6). The health authority has the discretion to decide the applicability of this section;
 - (2) Operated by a public school system; or
 - (3) An event sponsored by the City of San Marcos and is determined to be a not for profit event by the health authority.
- (B) If a permit application is not approved, the health authority may refund the permit fee to the applicant.
- (C) Fees for permits, inspections, and other services under this division are established by the city council.

DIVISION 3. MOBILE FOOD UNITS

Sec. 18.101. Permit application.

- (A) A person who seeks to operate a mobile food unit must submit to the health authority a written or electronic application for a permit on a form provided by the health authority. The application must include:

- (1) A statement from the owner of a central preparation facility stating the mobile food unit uses the facility as its base of operation or proof that the applicant has its own central preparation facility;
- (2) Name and address of the applicant and the applicant's identification number as shown on a current and valid government-issued identification document that includes a photograph of the applicant;
- (3) Type of vehicle to be used for the proposed mobile food establishment;
- (4) Proof of sales tax and use permit;
- (5) An itinerary of locations where sales occur;
- (6) Other information reasonably required by the health authority;
- (7) The signature of each applicant;

If the central preparation facility is located outside the jurisdiction of the City, the applicant must provide a copy of the most current health inspection obtained from the health authority having jurisdiction over the central preparation facility;

- (8) A listing of all food items to be sold (menu); and
 - (9) A written or electronic acknowledgment signed by the owner of the mobile food unit stating that all the information provided on the application is true and accurate.
- (B) For a mobile food unit permit, the health authority shall describe on the permit whether the unit is restricted or unrestricted.

- (C) A person operating a mobile food unit shall promptly display the mobile food unit permit where it is readily visible as designated by the health authority.
- (D) Electricity may be provided by:
 - (1) An onboard generator; or
 - (2) Other connection approved by the health authority and other regulating authorities having jurisdiction over the electrical connection.
- (E) Except for the purpose of filling potable water or emptying tanks at approved locations, water or wastewater connection is prohibited.

Sec. 18.102. Items to be sold.

- (A) A person operating a mobile food unit may only sell a food item described in the permit.
- (B) A person operating a mobile food unit may not sell a non-food item.

Sec. 18.103. Sanitary and fire requirements.

- (A) If a person who operates a mobile food unit maintains food at a hot holding temperature by mechanical means, the person shall comply with fire and explosion safety standards established by the manufacturer and applicable codes.
- (B) If a person uses a pressurized fuel system or container in conjunction with the mobile food unit, that person shall comply with fire and explosion safety standards established by the manufacturer and applicable codes.
- (C) A person operating a mobile food unit shall equip the interior of the mobile food unit with an attached trash receptacle approved by the health authority for the use of persons working in the mobile food unit. The operator must hold, store, and dispose of solid and liquid waste in a receptacle approved by the health authority and must comply with any other applicable city ordinances.
- (D) An unrestricted mobile vending unit must be equipped with an attached potable water container of no less than 25 gallons unless approved by the health authority. A pushcart type unrestricted mobile food unit must be equipped with an attached potable water container of no less than 5 gallons; and
- (E) A mobile food unit waste water container must be sized at least 15% higher capacity than the potable water tank size installed.
- (F) A mobile food unit permit is non-transferrable to any new owner or vehicle; and
- (G) A mobile food unit must be readily moveable at all times and all components and equipment may be subject to compliance with TXDOT regulations.

Sec. 18.104. Vending from a city property.

A person who operates a mobile food unit may not go into a city park to sell, offer for sale, or display a food item, unless the person's activity is authorized by:

- (1) A park property rental agreement; or
- (2) Written permission of the director of the parks and recreation department.

Sec. 18.105. Other requirements.

- (A) All disturbed areas must be cleaned following each stop to a minimum of 25 feet from the sales location. Liquid spills near the unit shall be properly cleaned following each stop.
- (B) The company name shall be displayed on at least three sides of the mobile food unit with a minimum of 4-inch letters.
- (C) Mobile food units shall not be parked overnight in any area of the city zoned for or occupied by a one-family or two-family residence.
- (D) Single service items must be recyclable or compostable material.
- (E) Use of any Styrofoam material is strictly prohibited.

Sec. 18.106. Central preparation facility requirements.

- (A) Application for Permit and Operational Requirements.
 - (1) A person who seeks to operate a central preparation facility must submit to the health authority a written or electronic application for a permit on a form provided by the health authority. The application must include:
 - (a) Name and address of the applicant and the applicant's identification number as shown on a current and valid government-issued identification document that includes a photograph of the applicant;
 - (b) Designated area to be used as a servicing area for any proposed mobile food unit operations;
 - (c) Size of grease trap;
 - (d) Number of mobile food units that will be utilizing the facility; and
 - (e) Any other documentation deemed necessary by the health authority to determine compliance with city ordinances and state law.
 - (2) Operation of the central preparation facility must be overseen by a certified food manager.
 - (3) The central preparation facility must maintain a current food establishment permit with the health authority in addition to the permit to operate as a central preparation facility.
 - (4) The health authority may deny a permit for a central preparation facility or restrict the number of mobile units that can utilize the facility. If denied, the applicant can appeal the decision to deny the permit to the health authority. Such appeal shall be in writing and submitted within 10 days of receiving a notice from the health authority that the permit has been denied.

- (5) The central preparation facility may not exceed the maximum number of mobile food units authorized by the permit without receiving written permission from the health authority.

DIVISION 4. TEMPORARY FOOD ESTABLISHMENTS

Sec. 18.107. Temporary food establishment.

- (A) If necessary to protect against public health hazards or nuisances, the health authority may impose specific requirements in addition to those requirements contained in this section.
- (B) An applicant for a food establishment permit must submit the application to the health authority not later than the 7th business day before the date for which the permit is sought. Processing of an application submitted less than 7 business days prior to the event may be charged an additional expedited processing fee.

DIVISION 5. CERTIFIED FARMERS' MARKET VENDORS

Sec. 18.108. Permit required.

- (A) A permit is required for farmers' market vendors selling cut versions of watermelon, cantaloupe, tomatoes, spinach, and lettuce. A permit is also required for raw seed sprouts, raw eggs, and any other food determined to be a Time/Temperature Control for Safety (TCS) food by the health authority.
- (B) A permit is not required for farmers' market vendors selling a food that is not considered a Time/Temperature Control for Safety (TCS) food by the health authority.
- (C) A farmers' market vendor shall comply with all of the requirements as set forth in the Texas Health and Safety Code.
- (D) Farmers' market vendors required to obtain a permit by this section may obtain a single permit if operating at multiple markets. Each location will need to be listed on the initial application or a written request must be submitted and written approval granted by the health authority to operate at additional farmers' market locations.
- (E) An applicant for a certified farmers' market vendor's permit must submit a written or electronic application to the health authority. The application must include:
 - (1) The name and address of the applicant and the applicant's identification number as shown on a current and valid government-issued identification document that includes a photograph of the applicant;
 - (2) The signature of the applicant;
 - (3) If requested by the health authority, a statement from the owner of a central preparation facility stating the farmers' market vendor uses the facility as its base of operation or proof that the applicant has its own central preparation facility;
 - (4) Name and addresses of the certified farmers' market where the vendor will operate; and

- (5) Any other information reasonably required by the health authority.
- (F) Upon receiving the application with the fee set forth by council for a farmers' market vendor permit under this section, the health authority may approve the application for a farmers' market vendor. A farmers' market vendor permit is effective for one year from the date of issuance.
- (G) An applicant for a certified farmers' market permit shall submit the application to the health authority not later than the 7th business day before the effective date for which the permit is sought and must display a current and valid permit issued by the State of Texas.
- (H) A person operating under a farmers' market vendor permit shall promptly display the original farmers' market vendor permit where it is readily visible to consumers or as designated by the health authority.
- (I) In the event the health authority determines an application does not comply with the provisions of this section or other city ordinances, the health authority shall notify the applicant in writing of the denial for the issuance or renewal of a farmers' market vendor permit.
- (J) An applicant who has been refused the issuance or the renewal of a farmers' market vendor permit may appeal the decision by submitting a written appeal within 10 business days to the health authority.
- (K) A person may provide samples, or conduct a cooking demonstration, for a bona fide educational purpose, only in a defined physical location designated in writing by the market manager.

Sec. 18.109. Sanitary requirements.

- (A) A person operating as a farmers' market vendor shall comply with the Texas Health and Safety Code and the requirements of this section.
- (B) The health authority may inspect each farmers' market vendor booth offering food products as is necessary for the enforcement of this section.
- (C) An employee or volunteer of a farmers' market vendor shall be a registered food handler if preparing, displaying, or serving a Time/Temperature Control for Safety (TCS) food to the public.
- (D) The market manager of a certified farmers' market shall be responsible for ensuring that all booths are operating with a current and valid permit and for ensuring that all shared or common facilities and operations comply with this chapter. In the case of repeated violations of this section, the health authority may impose restrictions on the preparation of food products at a farmers' market vendor booth.
- (E) A farmers' market vendor may not set up food sampling operations as unattended self-service displays for customers.
- (F) A farmers' market vendor shall provide containers with covers to protect food products during storage and display and shall put sneeze guards, or other method or equipment,

pre- approved by the health authority, into place to protect food products from consumer contamination.

- (G) Farmers' market vendors shall correct all violations at the time of inspection unless an extension is allowed by the health authority. No extension shall be granted where the violation poses an imminent health hazard to the public.
- (H) Farmers' market vendors operating at a certified farmers' market without a valid permit or with a suspended permit constitutes an offense under this chapter.
- (I) The health authority may impose additional requirements to protect against health hazards related to the conduct of a farmers' market booth. The health authority may prohibit the sale of some or all Time/Temperature Control for Safety (TCS) foods.

DIVISION 6. RESTROOMS AND OTHER REQUIREMENTS

Sec. 18.110. Employee restroom requirements.

- (A) An employee restroom shall be conveniently located and accessible during hours of operation.
- (B) Restrooms required for mobile food units, temporary food establishments, and farmer's market vendors may be used as employee restrooms if the restrooms are located:
 - (1) Within 300 feet of the main food preparation area of a mobile food unit, temporary food establishment, or farmer's market vendor; or
 - (2) In a location determined by the health authority to be convenient and accessible to employees.

Sec. 18.111. Child care facility food establishments.

A food establishment located in a child care facility may not serve as a central preparation facility for catering or mobile food operations.

DIVISION 7. INSPECTIONS

Sec. 18.112. Inspection authority.

- (A) The health authority may inspect a food establishment or bed and breakfast limited during regular business hours or at another reasonable time to determine compliance with this chapter. The health authority shall display identification upon request.
- (B) The health authority may examine or collect samples of food that is stored, prepared, packaged, served, or otherwise provided for human consumption by a food establishment or bed and breakfast limited.
- (C) A food establishment or bed and breakfast limited upon request, shall provide records to the health authority to determine compliance with local and state laws.

DIVISION 8. OFFENSES AND ENFORCEMENT

Sec. 18.113. Food establishment inspections and violations.

- (A) After inspecting a food establishment, the health authority shall state on the inspection report:
 - (1) A weighted point value for each violation of a critical requirement;
 - (2) The rating score of the establishment determined by subtracting from 100 the total of the weighted point values for all violations; and
 - (3) Failure to correct the violations within the prescribed time period may result in the suspension of the permit in accordance with section 18.118 of this chapter.
- (B) The person in charge of a food establishment shall correct a violation of a critical requirement as directed by the health authority in consideration of the risk to public health and safety;
- (C) The person in charge of a food establishment shall correct non-critical violations:
 - (1) Within the time period prescribed by the inspection report or notice of violation; or
 - (2) If a time period is not prescribed, as soon as possible before the next routine inspection.
- (D) If the rating score of a food establishment is less than 70 points, the person in charge shall immediately initiate corrective action on all critical violations and begin corrective actions on other violations no later than 48 hours after the inspection.

Sec. 18.114. Hold order and condemnation of food.

- (A) The health authority may place a hold order on food or may detain equipment after:
 - (1) Determining that the food is stored, prepared, transported, or served in violation of applicable law;
 - (2) The detained equipment is not functioning properly or presents a health risk; and
 - (3) Giving written notice to the permit holder or the person in charge.
- (B) The health authority shall tag or otherwise identify food or equipment that is subject to a hold order. Unless authorized by the health authority, a person may not use, serve, sell, or move food or equipment that is subject to a hold order, nor may the person remove a detained equipment sticker.
- (C) The health authority shall permit storage of food that is subject to a hold order. The hold order may prescribe storage conditions for the food.
- (D) The health authority may allow repair of equipment affixed with a detained sticker.
- (E) The health authority may require re-inspection and payment of a re-inspection fee to approve repairs that are necessary to the detained equipment.
- (F) The health authority shall state in a hold or detention order:

- (1) The reasons for the hold order;
 - (2) That a person may file a written request for a hearing with the health authority not later than the 10th business day after the date the hold order is issued; and
 - (3) That if a hearing is not requested, the food will be destroyed or the equipment will be further detained.
- (G) The permit holder or person in charge may file with the health authority a written request for a hearing on a hold order or detained equipment. The request must be filed not later than the 10th business day after the date the hold order is issued.
- (H) If a timely hearing request is filed, the health authority shall hold a hearing on the hold order.
- (I) On the basis of evidence produced at the hearing, the health authority may:
- (1) Vacate the hold order; or
 - (2) By written order require the permit holder or person in charge to denature or destroy the food, or to bring the food into compliance, or have the equipment repaired so that it operates in compliance with applicable laws.
- (J) An order of the health authority to denature or destroy food or to repair detained equipment is stayed if the order is appealed to a court of competent jurisdiction not later than the third business day after the date the order is issued.
- (K) The health authority shall immediately condemn food or render food unsalable as human food if the health authority determines that the food:
- (1) Contains a filthy, decomposed, or putrid substance;
 - (2) May be poisonous or deleterious to health; or
 - (3) Is otherwise unsafe.
- (L) The health authority may condemn equipment as unsafe for food storage or preparation if the health authority determines that the equipment:
- (1) Contains filthy, decomposed, or putrid substance(s);
 - (2) May be or is deleterious to health; or
 - (3) Is otherwise unsafe.

Sec. 18.115. Temporary food establishment violations.

- (A) The person or business in charge of a temporary food establishment shall immediately correct violations identified in an inspection report. If the violations are not corrected immediately, the person or business in charge shall stop food service operations until authorized to resume by the health authority.
- (B) The health authority may immediately cite the person or business in charge or suspend food service operations of a temporary food establishment that does not correct violations identified as required in Subsection (A).

Sec. 18.116. Mobile food unit violations.

- (A) A person or business who operates a mobile food unit shall immediately correct violations identified in an inspection report. If the violations are not corrected immediately, the person in charge shall stop food service operations at the mobile food unit until authorized to resume by the health authority.
- (B) The health authority may immediately cite the person or business in charge or suspend food service operations of a mobile food unit that does not correct violations identified as required in Subsection (A).

Sec. 18.117. Miscellaneous food establishment violations.

The person in charge of a food processing plant, food vending machine, or bed and breakfast limited shall correct violations identified in an inspection report or notice of violation before the expiration of the time period prescribed by the report.

Sec. 18.118. Permit suspension.

- (A) The health authority may suspend a permit issued under this chapter without prior notice or hearing if:
 - (1) The permit holder or employee does not comply with this chapter;
 - (2) The food establishment does not comply with this chapter; or
 - (3) The food establishment constitutes a public health hazard.
- (B) If the health authority suspends a permit:
 - (1) The health authority shall give written notice to the permit holder or person in charge that:
 - (a) The permit is immediately suspended on service of the notice; and
 - (b) The permit holder may file a written request for a hearing not later than the 10th business day after the date of service of notice of suspension; and
 - (2) The permit holder or person in charge shall immediately stop food operations.
- (C) Suspension of a permit is effective on service of notice.
- (D) If a timely hearing request is filed, the health authority shall hold a hearing on the permit suspension not later than the 10th business day after the date the hearing request is filed.
- (E) If a timely hearing request is not filed, the suspension continues in effect.
- (F) The health authority may reinstate a permit if the reason for suspension no longer exists.

Sec. 18.119. Permit denial or revocation.

- (A) The health authority may deny or revoke a permit issued under this chapter or issue a conditional permit when a renewal is applied for by a food establishment if the permit holder or the permit holder's employee:
 - (1) Commits critical or repeated violations of applicable law;
 - (2) Provides false information on an application; or
 - (3) Interferes with the health authority in the performance of the health authority's duties; or
 - (4) If an operating food establishment changes ownership and there are violations or existing conditions that must be corrected to meet applicable health and safety standards.
- (B) Before denying or revoking a permit, the health authority shall provide the permit holder or person in charge with written notice of the pending permit revocation or denial. The written notice shall include:
 - (1) The reason the permit is subject to denial or revocation; and
 - (2) For revocations the date on which the permit is scheduled to be revoked; and
 - (3) A statement that the permit will be revoked on the scheduled date unless the permit holder files a written request for a hearing with the health authority not later than the 10th business day after the date the notice is served.
- (C) A conditional permit issued under Subsection (A) above for a food establishment shall be effective for up to 60 days, and shall be rescinded if the permit holder or person in charge of the food establishment does not comply with the terms of its issuance.
 - (1) This subsection (C) does not apply to mobile food units, seasonal food establishments, or temporary food establishments.
- (D) A permit denial or revocation becomes final on expiration of the time period prescribed by the notice.

Sec. 18.120. Variance to allow dogs in outdoor eating areas.

- (A) A food establishment may apply for a Dining With Dogs Variance waiving the prohibition against dogs at a food establishment as permitted by local and state law.
 - (1) The variance will be granted if the health authority determines a health hazard or nuisance will not result from the granting of the variance.
 - (2) The food establishment must submit an application for a variance on a form provided by the health authority and pay a nonrefundable application fee.
 - a. Upon request of the food establishment, before accepting an application for a variance and the accompanying application fee, the health authority may schedule one preliminary meeting with a representative of the food establishment to review the proposed variance request, and provide comments to or answer questions regarding the request.
 - (3) A variance granted under this section is nontransferable and shall be reviewed every

2 years.

- (B) The health authority may grant a variance in accordance with the variance process as defined in state law to allow dogs on the premises of a food establishment's outdoor patio or outdoor dining area, only in accordance with the following standards and conditions intended to prevent a health hazard or nuisance:
- (1) Except as allowed under state law, no dog may enter or be present inside the food establishment or on any playground area of the food establishment;
 - (2) A separate entrance must be provided from the outside of the food establishment to the outdoor patio or outdoor dining area so that a dog will have direct access to the patio without entering the interior of the food establishment or any playground area of the food establishment.
 - (3) Signage provided by the health authority must be posted at the front entrance and at the separate entrance to the outdoor patio or outdoor dining area of the food establishment to be easily visible to the public. The signage at the front entrance must read: DOG FRIENDLY ACCESS (with an arrow showing the direction to the outdoor patio or dining entrance) NO DOGS THROUGH MAIN ENTRANCE. Signage to the outdoor patio or outdoor dining area must read: DOG ACCESS. In addition, one or more signs promulgated by the health authority outlining the dog dining rules shall be posted in conspicuous locations as determined by the health authority. Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio or outdoor dining area from the interior of the food establishment;
 - (4) No food preparation, including mixing drinks or serving ice, may be performed in the outdoor patio or outdoor dining area, except that a beverage glass may be filled from a pitcher or other container that has been filled or otherwise prepared inside the food establishment;
 - (5) The food establishment shall have hand sanitizer available at or near all entrances and exits to the outdoor patio or outdoor dining area;
 - (6) The outdoor patio or outdoor dining area must be continuously maintained free of visible dog hair, dog dander, and other dog-related waste or debris. Any portion of the outdoor patio or outdoor dining area with impervious cover must be cleaned with animal friendly chemicals at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), or, if a food establishment has continuous food or beverage service without designated shifts, then every six-hours that the establishment is open for business. Waste created from a dog's bodily functions must be cleaned up with animal friendly chemicals within five minutes after each occurrence.
 - (7) All dog waste must be disposed of outside of the food establishment in an appropriate waste receptacle. Equipment used to clean the outdoor patio or outdoor dining area must be kept outside of the food establishment. Cleaning under this subsection is not required if no dog has been present in the outdoor patio or outdoor dining area since the last cleaning;
 - (8) While on duty, wait staff or other food handlers at the food establishment, may not

- pet or have contact with any dog;
- (9) A dog must be kept on a leash and remain in the control of the owner while in the outdoor patio or outdoor dining area. The dog must be currently vaccinated for rabies and wear a collar or harness with a current rabies tag attached to it;
 - (10) A dog is not allowed on a seat, table, countertop, or similar surface;
 - (11) A dog is not allowed to have contact with any dish, utensil, tableware, linen, paper product, or any other item used for food service;
 - (12) A dog may not be given any food (including, but not limited to, dog kibble, biscuits, and edible treats) while in the outdoor patio or outdoor dining area, but may be given water in a disposable container or from a container provided by the owner;
 - (13) The food establishment must maintain written procedures to notify city animal services of any rabies control incidents, or any other incident involving any sort of altercation between two or more dogs where the dogs come into physical contact;
 - (14) The food establishment shall provide a training program to all employees related to dog dining that is completed once a year. Training for new employees must be completed within 14 days of hire. The training shall include a review of this section and the terms of the variance for the food establishment; and
 - (15) The food establishment shall require each employee to sign a form acknowledging that they have completed the training program and understand this section and the terms of the variance. The form shall, at a minimum, contain the employee's name, address, phone number, the person conducting the training and the date of the training. The forms shall be available upon request during inspections or investigations of complaints.
- (C) An owner, manager, or other person in charge of a food establishment commits an offense if they, either personally or through an employee or agent, violate, allow a violation of, or fail to comply with a term or condition of a variance granted under this section.
 - (D) A food establishment granted a variance under this section shall comply with all other applicable Texas Food Establishment Rules and the provisions of this chapter.
 - (E) The city may deny or revoke a variance under this section if the food establishment is in violation of any term or condition of the variance as established by this section or state law. The process established in Section 18.119 for the revocation of a food establishment permit will be followed when it is determined a violation of this section has occurred.

Secs. 18.122—18.150. - Reserved.

SECTION 2. If any word, phrase, clause, sentence, provision or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 3. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 4. This ordinance will take effect upon its adoption on second reading.

PASSED AND APPROVED on first reading on April 16, 2019.

PASSED, APPROVED AND ADOPTED on second reading on May 7, 2019.

Jane Hughson
Mayor

Attest:

Approved:

Jamie Lee Case
City Clerk

Michael J. Cosentino
City Attorney

ARTICLE 3. - FOOD ESTABLISHMENTS AND FOOD VENDING MACHINES^[2]

Footnotes:

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Editor's note— Ord. No. 2003-46, § 1, adopted July 23, 2003, repealed ch. 18, art. 3, §§ 18.086—18.093, 18.121—18.124, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, art. 3 pertained to food service establishments and derived from Code 1970, § 11-1—11-10, 11-11(a), (d), (e), (g)(1), (2), 5½-1—5½-4; Ord. No. 1999-81, § 1, adopted Sept. 27, 1999; Ord. No. 1999-91, § 1, adopted Nov. 8, 1999.

Cross reference— Buildings and building regulations, ch. 14.

State Law reference— Food service establishments, V.T.C.A., Health and Safety code, § 473.001 et seq.

DIVISION 1. - GENERALLY

Secs. 18.061—18.085. - Reserved.

DIVISION 2. - FOOD ESTABLISHMENTS AND FOOD VENDING MACHINES

Sec. 18.086. - Purpose.

The purpose of this division is to protect the public health by establishing uniform requirements for food establishments and food vending machines.

(Ord. No. 2003-46, § 1, 7-23-03)

Sec. 18.087. - Definitions.

In this division:

Food establishment means an operation that stores, prepares, packages, serves, or otherwise provides food for human consumption, such as a food service establishment, retail food store, satellite or catered feeding location, catering operation (if the operation provides food directly to a consumer or to a conveyance used to transport people), market, remote catered operation, conveyance used to transport people, institution, or food bank, that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by a common carrier.

Food vending machine means a vending machine that is designed to contain, or contains, potentially hazardous food.

Potentially hazardous food means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, the growth and toxin production of *Clostridium botulinum*, or in raw shell eggs, the growth of *Salmonella enteritidis*. A further elaboration of foods that are included and excluded from this term is contained in the state rules.

Regulatory authority means the city environmental health department.

State rules mean the state rules found at 25 Texas Administrative Code, Chapter 229, Subchapter K. These rules are also known as the Texas Food Establishment Rules. Terms used in this division that are defined in the state rules will have those same definitions when used in this division.

(Ord. No. 2003-46, § 1, 7-23-03)

Sec. 18.088. - Adoption of state health rules.

The state rules are adopted by reference and will be enforced by the regulatory authority.

(Ord. No. 2003-46, § 1, 7-23-03)

Sec. 18.089. - Remedies.

- (a) *Penalties.* Any person who violates this division, and any person who is the permit holder of or otherwise operates a food establishment or a food vending machine who does not comply with the provisions of this division, or any responsible officer or manager of the establishment or food vending machine, may be punished upon conviction as provided in section 1.015 of this Code.
- (b) *Injunctions.* In addition to subsection (a) of this section, the regulatory authority may seek to enjoin violations of this division.

(Ord. No. 2003-46, § 1, 7-23-03)

Sec. 18.090. - Permits.

- (a) *Required.* No person may operate a food establishment or a food vending machine without a valid permit issued by the regulatory authority. Only a person who complies with this division is entitled to receive or retain a permit. Permits expire on an annual basis and are not transferable between persons or locations. A valid permit must be posted and available for inspection by the regulatory authority in every food establishment or on every food vending machine in the city.
- (b) *Application.*
 - (1) Any person desiring to operate a food establishment or a food vending machine must make written application for a permit, on forms provided by the regulatory authority and must pay all applicable fees. Failure to provide all required information and fees, or falsifying information provided on the application may result in the denial of the application or revocation of a previously approved permit. The denial or revocation is in addition to other penalties provided for under section 18.089 of the city Code.
 - (2) Prior to the approval of an application for a permit, the regulatory authority must inspect the proposed food establishment or food vending machine for compliance with the requirements of this division.
- (c) *Fees.*
 - (1) The applicant for a permit under this division will pay all fees to the city finance department.
 - (2) Fees for permits, inspections and other services under this division are established by the city council.
- (d) *Issuance.* The regulatory authority will issue a permit to the applicant if its inspection reveals that the proposed food establishment or food vending machine meets all requirements of this division.
- (e) *Suspension.*
 - (1) The regulatory authority may without warning, notice or hearing, suspend any permit to operate a food establishment or vending machine if the operation constitutes an imminent hazard to public health. Suspension is effective upon service of the notice required by subsection (e)(3) of this section. Whenever a permit is suspended, food service operations must immediately cease.

- (2) If, upon reinspection under section 18.092(c), the regulatory authority discovers that the person operating a food establishment or food vending machine did not take the directed corrective measures that necessitated the reinspection, the regulatory authority may suspend the permit until the operator complies with the directions. The regulatory authority shall follow the notice procedures set forth in (e)(3) of this section.
- (3) Whenever a permit is suspended, the regulatory authority must notify the holder of the permit or the person operating the food establishment or food vending machine in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit within ten days. If a request for a hearing is received during the ten day period, the regulatory authority must hold a hearing on the suspension within ten days of receipt of the request. If no written request for hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.
- (f) *Revocation.* The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of this division or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority must notify the holder of the permit or the person operating the food establishment or food vending machine in writing, of the reason for which the permit is subject to revocation and that the permit will be revoked at the end of the ten days following service of notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within the ten day period. If a request for a hearing is not filed within the ten day period, the revocation of the permit is final.
- (g) *Service of notices.* A notice provided for in this division is properly served when it is delivered to the holder of the permit, the person operating the food establishment or food vending machine or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.
- (h) *Hearings.* The hearings provided for in this division will be conducted by the regulatory authority at a time and place designated by the authority. Based upon the recorded evidence of the hearing, the regulatory authority will make a final finding and will either sustain, modify or rescind any notice or order considered at the hearing. A written report of the hearing decision will be furnished to the holder of the permit by the regulatory authority within 30 days of the hearing.
- (i) *Application after revocation.* Whenever a revocation of a permit has become final, the holder of the revoked permit, may make written application for a new permit.
- (j) A food establishment or food vending machine is exempt from the permit fees under this division if it is operated solely by a nonprofit organization. The organization must apply for the exemption and the regulatory authority may request any information reasonably necessary to determine whether the organization is nonprofit and failure to provide such information is grounds for denying the exemption.

(Ord. No. 2003-46, § 1, 7-23-03)

Sec. 18.091. - Review of plans.

- (a) *Submission.* Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for the construction, remodeling or conversion shall be submitted to the regulatory authority for review and approval before construction, remodeling or conversion begins. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas and the type and model of proposed fixed equipment and facilities. The regulatory authority will approve the plans and specifications if they meet the requirements of this division. No food service establishment shall be constructed, extensively

remodeled or converted except in accordance with plans and specifications approved by the regulatory authority.

- (b) *Preoperational inspection.* Whenever plans and specifications are required by subsection (a) of this section to be submitted to the regulatory authority, the regulatory authority shall inspect the food service establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this division.

(Ord. No. 2003-46, § 1, 7-23-03)

Sec. 18.092. - Inspections.

- (a) *Inspections.* An inspection of a food service establishment or a food vending machine shall be performed at least once every six months. Additional inspections of the food service establishment or food vending machine shall be performed as often as necessary for the enforcement of this division.
- (b) *Priorities.* If the department cannot inspect every food service establishment or food vending machine, then the department shall prioritize the inspection frequency based upon the following factors:
 - (1) Past performance for noncompliance with critical rules;
 - (2) Past performance for noncompliance with noncritical rules;
 - (3) The hazards associated with the particular foods that are prepared, stored, or served;
 - (4) The type of operation including the methods and extent of food storage, preparation, and service;
 - (5) The number of people served;
 - (6) Whether the population served is a highly susceptible population; and
 - (7) Any other relevant risk factor.
- (b) *Reinspections.* The department shall reinspect the food service establishment or food vending machines in accordance with the guidelines in 25 TAC §229.171(l) if the department finds critical violations during the inspection, if the department gives more than 30 demerits during the inspection, or if the establishment or machine is not ready for inspection.

(Ord. No. 2003-46, § 1, 7-23-03)

Sec. 18.093. - Food handler cards.

- (a) *Required for employees.*
 - (1) It is unlawful to accept any person for employment in any food establishment, unless the person has obtained a valid food handler card.
 - (2) It is unlawful for a person to work at any food establishment without first obtaining a valid food handler card.
 - (3) While working at the food establishment, all employees shall carry the food handler card on or about their person.
 - (4) Notwithstanding section 18.090, the provisions of V.T.C.A., Health and Safety Code §§ 438.032 et seq. and 438.041 et seq. are adopted as a portion of this section, insofar as applicable.

- (b) *Completion of training session prerequisite to issuance.* Any person required by this section to have a food handler card must first complete a training session approved by the city environmental health department.
- (c) *Issuance; forms.* Upon completion of the training session required by subsection (b) of this section, the department may issue a food handler card, which will expire 36 months from the date issued. The health officer is authorized to adopt a form for the card, plan of registration and other recordkeeping that will benefit the physicians and the city environmental health department.
- (d) *Registration; records; charges.* Each person receiving a food handler card shall, prior to reporting for work, go to the city environmental health department and have the card stamped and registered. The city environmental health department shall retain a permanent record of all cards issued, to whom issued, the date issued and any other information the health officer may need.

(Ord. No. 2003-46, § 1, 7-23-03)

Sec. 18.094. - Food establishment/food vending machine fee schedule.

City of San Marcos Environmental Health Department Food Establishment/Food Vending Machine Fee Schedule

Permit	Fee	Term
Food establishment permit:		
Up to five employees	\$200.00	Oct. 1st through Sept. 30th
Six to 19 employees	\$300.00	Oct. 1st through Sept. 30th
Over 20 employees	\$500.00	Oct. 1st through Sept. 30th
*Temporary food establishment permit	\$30.00 per booth or event	Up to 14 days
Mobile vendor permit	\$100.00 per unit	One year from date of issuance
Food vending machine permit	\$10.00 per unit	Oct. 1st through Sept. 30th
Reinspection fee	\$100.00	N/A

Food handler certificates	\$15.00	Three years from date of issuance
Plan review	½ of the permit fee	N/A

(Ord. No. 2003-46, § 2, 7-23-03)

Editor's note— Ord. No. 2003-46, § 2, adopted July 23, 2003, did not specifically amend the Code, hence inclusion as § 18.094 was at the discretion of the editor.

Sec. 18.095. - Variance for food establishments seeking to permit dogs in outdoor eating areas.

- (a) A food establishment may apply for a variance waiving the prohibition against dogs at a food establishment as permitted by Section 229.171(c) of the Texas Food Establishment Rules.
 - (1) The variance will be granted if the city environmental health division determines a health hazard or nuisance will not result from the granting of the variance.
 - (2) The food establishment must submit an application for a variance on a form provided by the city environmental health division and pay a nonrefundable application fee of \$200.00.
 - a. Upon request of the food establishment, before accepting an application for a variance and the accompanying application fee, the city environmental health division will schedule one preliminary meeting for up to one hour with a representative of the food establishment to review the proposed variance request, and provide comments to or answer questions regarding the request.
 - (3) A variance granted under this section is nontransferable and shall be reviewed biannually in accordance with City Code section 18.092.
- (b) The city environmental health division may grant a variance pursuant to this section and Section 229.171(c) of the Texas Food Establishment Rules, to allow dogs on the premises of a food establishment's outdoor patio or outdoor dining area, only in accordance with the following standards and conditions intended to prevent a health hazard or nuisance:
 - (1) Except as allowed under Section 229.167(p)(15) of the Texas Food Establishment Rules, no dog may enter or be present inside the food establishment or on any playground area of the food establishment;
 - (2) A separate entrance must be provided from the outside of the food establishment to the outdoor patio or outdoor dining area so that a dog will have direct access to the patio without entering the interior of the food establishment or any playground area of the food establishment;
 - (3) Signage provided by the city environmental health division must be posted at the front entrance and at the separate entrance to the outdoor patio or outdoor dining area of the food establishment to be easily visible to the public. The signage at the front entrance must read: DOG FRIENDLY ACCESS (with an arrow showing the direction to the outdoor patio or dining entrance) NO DOGS THROUGH MAIN ENTRANCE. Signage to the outdoor patio or outdoor dining area must read: DOG ACCESS. In addition, one or more signs promulgated by the

environmental health division outlining the dog dining rules shall be posted in conspicuous locations as determined by the division;

- (4) Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio or outdoor dining area from the interior of the food establishment;
 - (5) No food preparation, including mixing drinks or serving ice, may be performed in the outdoor patio or outdoor dining area, except that a beverage glass may be filled from a pitcher or other container that has been filled or otherwise prepared inside the food establishment;
 - (6) The food establishment shall have hand sanitizer available at or near all entrances and exits to the outdoor patio or outdoor dining area;
 - (7) The outdoor patio or outdoor dining area must be continuously maintained free of visible dog hair, dog dander, and other dog-related waste or debris. Any portion of the outdoor patio or outdoor dining area with impervious cover must be hosed down or mopped with animal friendly chemicals at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), or, if a food establishment has continuous food or beverage service without designated shifts, then every six hours that the establishment is open for business. Waste created from a dog's bodily functions must be cleaned up with animal friendly chemicals within five minutes after each occurrence. All dog waste must be disposed of outside of the food establishment in an appropriate waste receptacle. Equipment used to clean the outdoor patio or outdoor dining area must be kept outside of the food establishment. Cleaning under this subsection is not required if no dog has been present in the outdoor patio or outdoor dining area since the last cleaning;
 - (8) While on duty, wait staff or other food handlers at the food establishment, may not pet or have contact with any dog;
 - (9) A dog must be kept on a leash and remain in the control of the owner while in the outdoor patio or outdoor dining area. The dog must be currently vaccinated for rabies and wear a collar or harness with a current rabies tag attached to it;
 - (10) A dog is not allowed on a seat, table, countertop, or similar surface;
 - (11) A dog is not allowed to have contact with any dish, utensil, tableware, linen, paper product, or any other item used for food service;
 - (12) A dog may not be given any food (including, but not limited to, dog kibble, biscuits, and edible treats) while in the outdoor patio or outdoor dining area, but may be given water in a disposable container or from a container provided by the owner;
 - (13) The food establishment must maintain written procedures to notify city animal services of any rabies control incidents, or any other incident involving any sort of altercation between two or more dogs where the dogs come into physical contact;
 - (14) The food establishment shall provide a training program to all employees related to dog dining that is completed once a year and, for each new employee, within 14 days of the date the employee is hired. The training shall include a review of this section and the terms of the variance for the food establishment; and
 - (15) The food establishment shall require each employee to sign a form acknowledging that they have completed the training program and understand this section and the terms of the variance. The form shall, at a minimum, contain the employee's name, address, phone number, the person conducting the training and the date of the training. The forms shall be available upon request during inspections or investigations of complaints.
- (c) An owner, officer, manager, or other person in charge of a food establishment commits an offense if he, either personally or through an employee or agent, violates, allows a violation of, or fails to comply with a term or condition of a variance granted under this section.
- (d) A food establishment granted a variance under this section shall comply with all other applicable Texas Food Establishment Rules and the provisions of this chapter.

- (e) The city may deny or revoke a variance under this section if the food establishment is in violation of any term or condition of the variance as established by this section or state law. The process established in Section 18.090 for the revocation of a food establishment permit will be followed when it is determined a violation of this section has occurred.

(Ord. No. 2015-27, § 1, 8-18-15; [Ord. No. 2017-42](#), § 1, 8-15-17)

Secs. 18.096—18.150. - Reserved.



March 15, 2019

Dear Mayor and Council Members,

The Downtown Association of San Marcos applauds this Work Session regarding the new Environmental Health Code Amendments.

The DTA recommends and requests your agreement with the following:

- 1) A maximum of 12 events per year,
- 2) A Food Handler certificate holder required for each business participating in the event,
- 3) Ready to eat foods only with no preparation onsite. A non-exhaustive listing of example acceptable foods would be so welcome!
- 4) Any food served must be from a fixed food establishment or mobile food unit with a valid city permit. No homemade food items.
- 5) Single service articles only and they must be disposable including plates, utensils, cups, platters.
- 6) All food must be discarded at the end of a 4-hour period.
- 7) Participants must have a hand wash station.

The DTA requests that the permit be issued on an annual basis for a \$50 fee. Once the permit is issued, the business would not have to resubmit any paperwork for the year. The permit holder would email the Environmental Health Dept no less than one (1) business day before the event to self-report their event. This reduction in paperwork would be beneficial for both the business owner and the city department.

Many of our downtown businesses rely on the vibrancy of an active, pedestrian environment. Special event programming with light refreshment is often a meaningful catalyst for creating that atmosphere.

To maintain and build on the vitality of our downtown, our downtown businesses must have support from the top. A business cannot survive without vitality and it must come from the top.

Work Session: Environmental Health Code Amendments
Page 2.

We are thankful for your attention in this matter that is so important to many of our members.

Please consider the above permit conditions and fee for the downtown businesses.

Sincerely,

Jean Baggett

Jean Baggett, President

Downtown Association of San Marcos

TO: City Council

Through: Jeff Caldwell, City Marshall

Stacy Wright, Environmental Health Manager

FROM: Cliff Caskey, President San Marcos Farmers Market

DATE: 7 March 2019

SUBJECT: Farmers' Market Vender Fees

The San Marcos Farmers Market Association is in favor of the proposed ordinance for the Food Establishment Division 5-Certified Farmers' Market Vendors.

Our concern is the annual \$101.50 vendors permit fee. Our market vendors are very small producers and this permit fee would increase their overhead encouraging them to find other sales avenues.

The farmers market exists as a place where local people could buy fresh fruits, vegetables, baked goods, and eggs from local farmers. Our market is symbiotic for producers and San Marcos residents.

The San Marcos Farmers' Market Association suggests the following alternative vendor fee structures:

- a) \$10.00 permit fee per vendor
- b) \$100.00 blanket fee for the market covering all vendors requiring permits
- c) No fee-but vendors needing a permit would be required to apply and qualify for a permit

We endorse the formalization of sanitary food handling practices but are concerned with the increased overhead cost for small producers and their continued participation in the market.

A handwritten signature in black ink, appearing to read "Cliff Caskey", with a stylized flourish at the end.

Cliff Caskey, President San Marcos Farmers Market

City of San Marcos
Neighborhood Enhancement Department
Environmental Health Division
2019 Fee Schedule

Facility	Fee
Fixed Food Establishment Annual	\$304.50 for 1-5 employees
Fixed Food Establishment Annual	\$507.50 for 6 to 19 employees
Fixed Food Establishment Annual	\$761.25 for 20 employees and above
Temporary Food Establishment	\$50.75 (up to 14 days)
Farmers Market Vendor Annual	\$101.50
Mobile Food Unit Annual	\$203.00
Re-Inspection Fee	\$101.50
Plan Review (new or remodel)	50 percent of permit fee
Inspection Request Fee	\$101.50 (Daycares, Foster Homes, and Adult Care Facilities)
Seasonal Food Establishment (Proposed)	\$101.50 (up to 270 days)
Central Preparation Facility Annual (Proposed)	\$50.00

Onsite Sewage Facilities (OSSF)	Fee
Permit Single Residence	\$253.75
Permit Non-Residential	\$507.50
Plan Review Residential	\$101.50
Plan Review Non-Residential	\$152.25
Inspection Existing OSSF	\$127.00
Re-Inspection Trip Charge	\$50.75

3/20/2019

RE: City of San Marcos Letter of support for revised food ordinance

Dear Mr. Wright

Please let this letter serve as a vote of support for the recent revised food ordinance changes for the city of San Marcos. I own a push cart business and have been operating in the city for the past 13 years and I support the rule changes you are implementing. Thank you for allowing us to contribute suggestions throughout the process. I appreciate you allowing some flexibility in your interpretation of the State laws that have a good amount of common sense. Looking forward to another 13 years of doing business in the city of San Marcos.

Sincerely,

A handwritten signature in red ink, appearing to read 'Tucker', is written over the word 'Sincerely,'.

Thomas M Tucker

Owner/ Imagine Distributors LLC

PO Box 126 Fischer, TX 78623

3/11/2019

DRAFT Options for permitting San Marcos Downtown Association

Option 1:

DTA agrees to sponsor event and agrees to be permit holder for event. NO FEE for 501c(3). The Certified Food Protection Manager (CFPM) requirement would be waived. The special conditions of the food permit issued to the DTA are:

- 1) A maximum of 12 events per year;
- 2) A food handler certificate holder required for each business participating in an event;
- 3) Permit grants only the conveyance of Ready To Eat (RTE) foods and no food preparation is allowed onsite. Examples of food preparation include cutting, rolling, slicing, pressing, heating, reheating, etc.
- 4) Food served to customers must be from a fixed food establishment or mobile food unit with a current and valid permit from the City of San Marcos. No homemade food items.
- 5) Single service articles only. Shall use disposable plates, utensils, drinking cups, tongs, platters, etc.
- 6) All foods must be discarded at the end of the event or 4 hours, whichever comes first.
- 7) All participants must have a hand wash station as required for temporary food establishments.
- 8) DTA agrees in writing to revoke the participation of a business who repeatedly violates the conditions (1-7 above) of the food permit issued to DTA.
- 9) DTA acknowledges that the conditional permit to the DTA maybe suspended or revoked for continued noncompliance by a participant.

Option 2:

Each DTA business applies for a temporary food establishment permit for each event. Fee is \$51.50 for each event. The business must meet the conditions for a temporary food establishment as defined in the Texas Food Establishment Rules (TFER).

Option 3:

DTA businesses serve only prepackaged food and individual sized bottles of wine. No permit is required by COSM.



Neighborhood Enhancement

ENVIRONMENTAL HEALTH

630 East Hopkins, San Marcos, Texas 78666

Phone (512) 393-8440: Fax 844-830-5482

Website: www.SanMarcosTx.Gov / Email: healthinfo@sanmarcostx.gov

March 26, 2019

TO: Mayor and City Council

RE: Proposed COSM Food Ordinance

Background

The current City of San Marcos (COSM) Food Ordinance, Chapter 18, adopted the 25 Texas Administrative Code, Chapter 229, known as the 2006 Texas Food Establishment Rules (TFER).

In October 2015, the State of Texas repealed the 2006 TFER and replaced it with the 25 Texas Administrative Code, Chapter 228 which is the current version of the Texas Food Establishment Rules referred to as the 2015 TFER. The 2015 TFER is the current state law that all food establishments must comply with in order to operate in the State of Texas.

Staff recommends updating the current COSM Food Ordinance to reflect current state law by incorporating the 2015 TFER with amendments to address the local needs of our community.

Dating back to December 2017, staff conducted numerous stakeholder meetings and public outreach initiatives. A health and community committee was formed with representatives from fixed, mobile, and temporary food establishments. The committee identified local concerns to address when updating the COSM Food Ordinance. A presentation at the August 21, 2018 City Council work session briefed the Council on the progress being made toward updating the COSM Food Ordinance.

A new Environmental Health Manager was hired in January 2019. Recent initiatives to finalize the draft COSM Food Ordinance and improve the customer experience include:

- Streamlining the draft COSM Food Ordinance from 37 pages to 16 pages
- Revising and simplifying food permit application forms, including reducing the mobile food unit permit application form from 12 pages to 2 pages, while still protecting food safety
- Providing variances allowed under state law to provide flexible permitting and reduce the frequency of application submittals, reviews, and approvals
- Developing online food permit applications, renewals, and payments with the assistance of COSM Permit Manager and third-party vendor
- Began utilizing iPads in the field to better record and manage food inspections
- Began testing and implementation of the cloud-based food inspection field reporting software
- Created an e-mail list of over 500 stakeholders to solicit comments on the COSM Food Ordinance draft and to notify of upcoming Council work session

- Met with representatives from the farmers' market association and downtown association to discuss their specific concerns and
- Published the draft of the COSM Food Ordinance to the City's website with a link to submit comments

Draft Ordinance

In addition to incorporating the 2015 TFER by reference, the proposed ordinance adds local amendments to address the specific needs of the community. Highlights of the draft ordinance are:

- Includes language which will adopt future changes in state law by reference so COSM can stay current with the latest version of the Texas Food Establishment Rules
- Provides local changes, clarifications, and amendments to address concerns raised by stakeholders, as well as provide for a clear and concise food ordinance
- Provides for permit flexibility and a common-sense approach to permitting
- Creates a seasonal food permit option for recurring events
- Increases the time allowed for a food establishment employee to obtain a food handler card from 1st day of employment to 45th day to accommodate industry hiring practices
- Establishes a farmers' market ordinance section
- Clarifies that farmers' market vendors that do not sell a Time/Temperature Control for Safety (TCS) food are not required to obtain a food permit
- Waives fees and allows annual permitting for non-profit organizations, reducing the frequency of obtaining permits from as many as 26 times per year to 1 time per year in many cases
- Allows mobile food units to use an electrical connection in lieu of an onboard generator, reducing noise and environmental pollution, while providing a continual, non-disrupted electrical supply for refrigerators and hot holding units
- Requires mobile food units that use flammable fuels, such as propane, for cooking to meet all fire and explosion safety standards established by the manufacturer and local fire codes

Staff Recommendation

Staff recommends adopting the new COSM Food Ordinance, which incorporates the current state food laws and creates local amendments to address the specific needs of the community.

During stakeholder meetings, representatives with the San Marcos Farmers' Market and Downtown Association (DTA) expressed concerns regarding permits and fees. Each stakeholder has submitted letters which have been included in the Council packets for consideration.

Farmers' Market

Staff recommends the \$10.00 permit fee per vendor as requested by the San Marcos Farmers' Market. Only farmers' market vendors who sell potentially hazardous foods (e.g., cut watermelon, cut cantaloupes, raw eggs, and meat) are required to obtain a local health permit. Of those, the food inspections at the market are quick and usually take only 5-10 minutes. Additionally, Environmental Health has not had any complaints on the operations of the farmers' market. Please note that most farmers' market vendors are exempted from permitting by state law.

Downtown Association (DTA)

DTA was initially offered waived fees and annual permitting if the vendors would apply for the permits through DTA, which is a non-profit association. The DTA did not want to assume liability on behalf of

individual businesses participating in the 3rd Thursday wine walk events and elected not to obtain permits in this manner. Staff has since met with Ms. Baggett of DTA numerous times to find a mutually acceptable arrangement for permitting. All options offered are included in the ARF in the Word document titled "Options for DTA 031119".

Ms. Baggett submitted a letter dated March 15, 2019, which is included in this ARF, and titled "Downtown Association March 2019". She is requesting individual permits for downtown businesses at a reduced rate of \$50 annually, with seven conditions to meet code and ensure food safety. The seven conditions were mutually agreed upon in the last meeting between staff and Ms. Baggett. However, in that same meeting, staff advised Ms. Baggett that fees are determined by the City Council and that staff would forward her request for consideration. Please note that the current fee for a temporary event is \$50.75 per event and the current fee for an annual food permit is \$304.50.

In the proposed ordinance there is a new seasonal permit, valid for up to 270 days with conditions, available to all business owners with a proposed fee of \$101.50. Staff is in full support of the seasonal permit option and feel that the seven conditions are adequate and would fulfill the needs for the permit.

Staff does not recommend the reduction in fees proposed in the DTA letter based on the following:

1. Staff is concerned with creating disparity amongst other local businesses not in the DTA who would want to convey food to the public and receive the same permit and reduced fees;
2. The downtown area is defined in different ways in city codes and maps. There is no clear determination of who this would include, or if the intent is only to include businesses that are members of the Downtown Association.
3. If all businesses in San Marcos were offered the same permit and reduced fees, the increase in requests for these permits could overcome our current system and staff. The revenue generated would not cover the cost of permitting and inspections.
4. The reduction in fee would be a benefit to an independent business where the benefit is primarily for the individual business and would not be in accordance with the proposed fee policy.
5. Unlike fixed food establishments and mobile food units, non-food related businesses are not typically designed for the preparation or conveyance of food to the public and often lack the safety features required of these establishments.

Staff recommend resolving this issue with seasonal permits, with the seven stated conditions, in accordance with state laws, at the seasonal permit rate that is proposed. This option is fair and equitable with what would be offered to other businesses in San Marcos.



Legislation Text

File #: ID#19-043, **Version:** 1

AGENDA CAPTION:

Receive a Staff presentation and hold discussion regarding proposed amendments to Chapter 38 - Fire Prevention and Protection of the San Marcos City Code of Ordinances, and provide direction to Staff.

Meeting date: April 2, 2019

Department: Fire Department/Fire Prevention Division

Amount & Source of Funding

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

Fiscal Note:

Prior Council Action: N/A

City Council Strategic Initiative: [Please select from the dropdown menu below]

N/A

Choose an item.

Choose an item.

Comprehensive Plan Element (s): [Please select the Plan element(s) and Goal # from dropdown menu below]

- ☐ Economic Development - Choose an item.
- ☐ Environment & Resource Protection - Choose an item.
- ☐ Land Use - Choose an item.
- ☐ Neighborhoods & Housing - Choose an item.
- ☐ Parks, Public Spaces & Facilities - Choose an item.
- ☐ Transportation - Choose an item.
- ☒ Not Applicable

Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]

Choose an item.

Background Information:

In 2015, the current amendments to the fire code were adopted. Based on an ever-changing fire and life safety environment, combined with technology and science, updates to the code are necessary. Also, the proposed amendments bring the City more in-line with local neighbors and best practices across Texas.

There is not a redline of Ordinance 2015-010_ International fire code amendments. Instead of starting with our previous amendments (origin unknown) we chose to start with the North Central Texas Council of Government's (NCTCOG) Regional Codes Coordinating Committee's (RCCC) model and make only the minimal necessary local amendments to their document. Because of the extensive vetting process undertaken by the RCCC and the input of numerous metroplex fire marshal's, these amendments are considered "best practices".

"NCTCOG's [Regional Codes Coordinating Committee \(RCCC\)](https://www.nctcog.org/envir/committees/regional-codes-coordinating-committee) <<https://www.nctcog.org/envir/committees/regional-codes-coordinating-committee>> and its five advisory boards conducted multiple meetings to review the latest editions of the model codes and develop regional amendments. Their review and recommendations are endorsed by NCTCOG's Executive Board. Currently, NCTCOG encourages jurisdictions in North Central Texas to adopt the following model construction codes along with their respective regional amendments as expeditiously as their local code adoption process will allow."

Council Committee, Board/Commission Action:

N/A

Alternatives:

Remain under current amendments.

Recommendation:

Recommend adoption of the Fire Code Amendments as proposed.

San Marcos Fire Department



Fire Code Amendments
International Fire Code, 2015ed.

What is the International Fire Code (IFC)?

- Addresses conditions hazardous to life and property from fire, explosion, handling or use of hazardous materials and the use and occupancy of buildings and premises.
- Establishes minimum regulations for fire prevention and fire protection systems.
- IFC is in use or adopted in 42 states, the District of Columbia, New York City, Guam and Puerto Rico.



Why the IFC?

- The IFC is specifically correlated to work with International Code Council's (ICC's) family of codes.
- Developed through an international forum of fire safety professionals.
- Committee consists of fire marshals, professional engineers, architects, International Assoc. of Fire Chiefs (IAFC) members, National Assoc. of Home Builders.
- Encourages consistency in the application of provisions.



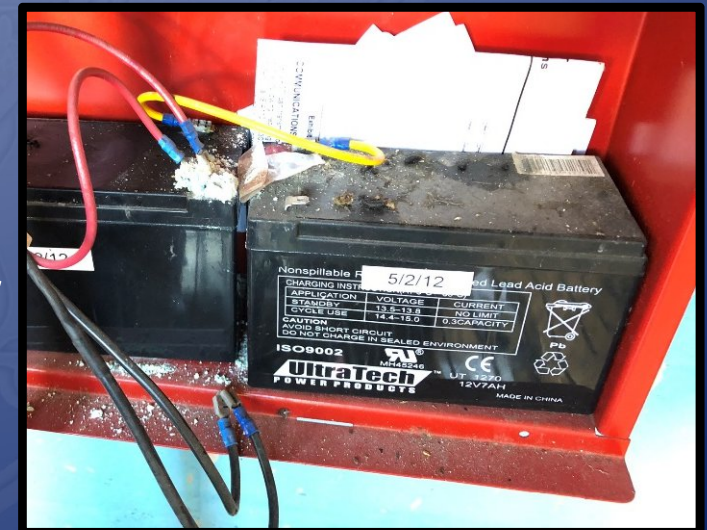
IFC 2015 vs. 2018

- Currently under 2015 edition.
- Maintaining 2015 edition to remain consistent with other City departments and code adoptions.
- Will adopt 2021 edition to remain compliant with Insurance Services Organization (ISO).
- Maintains consistency with many cities and counties in state and regionally.



Why Amend?

- All model codes require some amount of amendment.
- Proposed language COSM amendments contain/based-on scientific or risk-based justification.
- Consistency with surrounding communities.
- Improves regional consistency for developers and builders.



Source of Amendments

- Local needs (Fire Dept. Connection (FDC), Outdoor Burning, etc.)
- North Central Texas Council of Governments (NCTCOG) Fire Code Committee
 - Only COG statewide to have fire committee
 - Comprised of N. Texas fire marshals
 - Consensus committee to amend code for Texas
 - Amendments used statewide
- Neighboring jurisdictions



Chapter 38 – City Code

FIRE PREVENTION AND PROTECTION

Significant Changes

- Fire Marshal Appointment
 - In-line with move to FD
 - Civil Service
 - Meet and Confer
- Fire Investigations
 - Cleans up language
 - Ensures consistency with State law



Chapter 38 – City Code

FIRE PREVENTION AND PROTECTION

Significant Changes

- Inspections and Amendments
 - Adopts the Code in a more intended form.
 - Provides for local needs and requirements.
 - Provides consistency with other jurisdictions based on science and technology.



Chapter 38 – City Code

FIRE PREVENTION AND PROTECTION

Significant Changes

- Inspections and Amendments
 - Provides for additional safety and protection of citizens, residents, and firefighters.
 - Multi-family residential
 - 286 known multi-family properties
 - Almost 30,000 beds
 - At least 50% of residents live in multi-family

Chapter 38 – City Code

FIRE PREVENTION AND PROTECTION

Significant Changes

- Inspections and Amendments
 - Grills on multi-family patios
 - Fire extinguishers in hallways
 - Gate access (not retroactive)
 - Fire Department Connections (FDC)
 - Knox boxes
 - False alarms

Chapter 38 – City Code

FIRE PREVENTION AND PROTECTION

- Amendments adopted by ordinance
- Will be updated in 2021; unless critical issue arises before.



Economic Impact

- The amendments are consistent with other nearby jurisdictions and will not place an unusual economic burden on development.
- The amendments will not prevent or stifle development.
- Additional penalties are in place for false alarms.
- FDC and Knox box requirements are construction expenses that can be offset by operational savings.
- Additional cost will be incurred for new gate requirements on commercial structures, where required.
 - Approximately \$2,500 per gate for new construction

Conclusions

- Amendments are data and/or science based.
- Amendments are consensus developed locally, regionally, nationally.
- Provides consistency with neighbors.



Next Steps

- First reading for City Council on April 16, 2019.
- Second reading for City Council on May 7, 2019.
- Implemented upon passing on May 7.

Fire Prevention Future

- Since May 2018 we have been implementing our Multi-family Fire Prevention Program
 - Property manager meetings
 - Maintenance manager meetings
 - Develop public education campaign for multi-family
 - Property inventory
 - Inspections
- Scheduling meetings for contractors and sub-contractors.
- In 2020, we will begin formulating amendments for new code edition.
- In 2020-2021 present new edition to council.

Questions???



Chapter 38 - FIRE PREVENTION AND PROTECTION

Footnotes:

--- (1) ---

State Law reference— Authority of city to establish fire department, V.T.C.A., Local Government Code §§ 341.003, 342.011; appointment of fire protection personnel, V.T.C.A., Government Code § 410.032; firefighter qualifications and training, V.T.C.A., Government Code § 419.032; fire escapes, V.T.C.A., Health and Safety Code § 791.001 et seq.; flammable liquids, V.T.C.A., Health and Safety Code § 753.001 et seq.; fire safety, V.T.C.A., Health and Safety Code § 791.001 et seq.; fire alarms, V.A.T.S., Insurance Code, § 6002.001 et seq.; fire codes, V.T.C.A., Local Government Code § 235.001 et seq.; fires and fire protection, V.T.C.A., Local Government Code § 351.001 et seq.; regulation of fireworks, V.T.C.A., Local Government Code § 240.904; arson investigation, V.T.C.A., Local Government Code § 352.015 et seq.; controlled burning, V.T.C.A., Penal Code § 28.01(6).

Article I. Replace Article I with the following:

ARTICLE I. - IN GENERAL

Sec. 38-1. - Arson reward.

- a. The city hereby offers a reward of \$250.00 for information leading to the arrest and conviction of any person committing the crime of arson within the corporate limits of the city.
- b. This reward is a standing offer, and shall be paid out of the general fund of the city.

State Law reference— Arson, V.T.C.A., Penal Code § 28.02.

Secs. 38-2—38-31. - Reserved.

Article II. Replace Article II with the following:

ARTICLE II – FIRE MARSHAL

Sec. 38-26 – Appointment of Fire Marshal

The fire marshal shall be appointed by the Fire Chief. The appointment shall be in accordance with the methods permitted by the City and civil service laws.

Sec 38-28 – Appointment of Peace Officers

- a. The San Marcos Fire Department may function as a law enforcement agency, if approved as a law enforcement agency by the Texas Commission on Law Enforcement (TCOLE).
- b. The fire marshal shall be the TCOLE agency administrator for San Marcos Fire Department. In the event the fire marshal is not a sworn Texas Peace Officer, the Fire Chief may appoint a current fire department employee, who is a sworn peace officer, to be the agency administrator for TCOLE purposes.
- c. The fire marshal, with approval of the fire chief, may appoint licensed peace officers to perform law enforcement duties related to the responsibilities of the fire department and other state mandated law enforcement activities required by law.

Sec 38-030. Replace Sec. 38-030 with the following:

Sec 38-030 – Investigation of fire. The fire marshal, or their designee, shall investigate all fires as required by departmental policy, local ordinance, or state law.

Sec 38-031. Replace Sec. 38-031 with the following:

Sec 38-031 – Fire Prevention and Safety Education. The fire marshal, or their designee, may develop educational programs and disseminate materials necessary to educate the public effectively regarding methods of fire prevention and safety.

ARTICLE III. - FIRE CODE STANDARDS

Footnotes:

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State Law reference— Fire codes, V.T.C.A., Local Government Code § 235.001 et seq.

Sec. 38-32. - Code adopted.

- a. The International Fire Code 2015 to include appendices B, D, E, F and G and references thereto, are hereby adopted and incorporated by reference as the fire code of the city, subject to and including by reference such revisions, corrections, additions and deletions as shall appear in this article. In the interpretation and application, the provision of this article shall be held to be minimum requirements adopted for the promotion of public health, safety, morale and general welfare. A copy of the fire code is on file in the city fire marshal's office and the city secretary's office.
- b. In the event there is a conflict between this article and the adopted codes herein and any city, state or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.
- c. A violation of this chapter is a strict liability offense, and requires no culpable mental state.

Sec. 18-33. - Amendments to adopted code.

The following sections, paragraphs, and sentences of the International Fire Code, 2015 edition are hereby amended as follows:

Section 101.1; insert: [NAME OF JURISDICTION]

101.1 Title. These regulations shall be known as the Fire Code of the City of San Marcos, hereinafter referred to as "this code."

Section 102.6. add Section 102.6.1 to read as follows:

102.6.1 Historical Portions of Building. The exemptions provided by 102.6 shall apply only to the portion of the building designated as historical or comply with section 1103.1.1 whichever is more restrictive.

Section 103.2 is amended to read as follows:

103.2 Appointment. The fire code official shall be appointed in accordance with the prescribed procedures of this jurisdiction.

Section 105.7; add Section 105.7.19 to read as follows:

105.7.19 Electronic access control systems. Construction permits are required for the installation or modification of an electronic access control system, as specified in Chapter 10. A separate construction permit is required for the installation or modification of a fire alarm system that may be connected to the access control system. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

Section 109.4; insert: [OFFENSE, DOLLAR AMOUNT, NUMBER OF DAYS]

109.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a Class C Offense, punishable by a fine of not more than \$2,000 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 111.4; insert: [DOLLAR AMOUNT IN TWO LOCATIONS]

111.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$0.00 dollars or more than \$2,000 dollars.

Section 202; amend and/or add definitions as follows:

AMBULATORY CARE FACILITY. Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing, or similar care on a less than 24-hour basis to persons who are rendered incapable of self-preservation by the services provided. This group may include but not be limited to the following:

- Dialysis centers
- Procedures involving sedation
- Sedation dentistry
- Surgery centers
- Colonic centers
- Psychiatric centers

DEFEND IN PLACE. A method of emergency response that engages building components and trained staff to provide occupant safety during an emergency. Emergency response involves remaining in place, relocating within the building, or both, without evacuating the building.

FIRE WATCH. A temporary measure intended to ensure continuous and systematic surveillance of a building or portion thereof by one or more qualified individuals or standby personnel when required by the fire code official, for the purposes of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the fire department.

HIGH-PILED COMBUSTIBLE STORAGE. Add a second paragraph to read as follows:
Any building classified as a group S Occupancy or Speculative Building exceeding 12,000 sq. ft. that has a clear height in excess of 14 feet, making it possible to be used for storage in excess of 12 feet, shall be considered to be high-piled storage. When a specific product cannot be

identified, a fire protection system and life safety features shall be installed as for Class IV commodities, to the maximum pile height.

HIGH-RISE BUILDING. A building with an occupied floor located more than 55 feet (16 764 mm) above the lowest level of fire department vehicle access.

REPAIR GARAGE. A building, structure or portion thereof used for servicing or repairing motor vehicles. This occupancy shall also include garages involved in minor repair, modification and servicing of motor vehicles for items such as lube changes, inspections, windshield repair or replacement, shocks, minor part replacement, and other such minor repairs.

SELF-SERVICE STORAGE FACILITY. Real property designed and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

STANDBY PERSONNEL. Qualified fire service personnel, approved by the Fire Code Official. When utilized, the number required shall be as directed by the Fire Code Official. Charges for utilization shall be as normally calculated by the jurisdiction.

UPGRADED OR REPLACED FIRE ALARM SYSTEM. A fire alarm system that is upgraded or replaced includes, but is not limited to the following:

- Replacing one single board or fire alarm control unit component with a newer model
- Installing a new fire alarm control unit in addition to or in place of an existing one
- Conversion from a horn system to an emergency voice/alarm communication system
- Conversion from a conventional system to one that utilizes addressable or analog devices

The following are not considered an upgrade or replacement:

- Firmware updates
- Software updates
- Replacing boards of the same model with chips utilizing the same or newer firmware

Section 307.1 is amended to read as follows:

307.1. General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning, bonfire, recreational fire, or portable outdoor fireplace, unless conducted and approved in accordance with Sections 307.1.1 through 307.5.

Section 307.2 is amended to read as follows:

307.2. Permit Required. A permit shall be obtained from the fire code official in accordance with 105.6 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.

Section 307.4.1 is DELETED

Section 307.4.2 is DELETED

Section 307.4.3 is amended to read as follows:

307.4.1 Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure or combustible material.

Exception: Portable outdoor fireplaces used at one- and two-family dwellings.

Section 307.4.2. add Section 307.4.2 to read as follows:

307.4.2 Trench burns. Trench burns shall be conducted in air curtain trenches and in accordance with Section 307.2.

Section 308.1.4 is amended to read as follows:

308.1.4. Outdoor cooking. Charcoal burners, open flame cooking appliances, LP gas burners, outdoor grills, barbecue grills, or any other outdoor cooking appliance that generates sufficient heat to cook in, on, or about the appliance, shall not be operated or stored on balconies or within 15 feet of a structure or combustible material.

Exceptions:

1. One- and two-family dwellings
2. Delete
3. Delete

Section 308.1.6.2, Exception #3; change to read as follows:

Exceptions:

3. Torches or flame-producing devices in accordance with Section 308.1.3.

Section 503.1.1; add sentence to read as follows:

Except for one- or two-family dwellings, the path of measurement shall be along a minimum of a ten feet (10') wide unobstructed pathway around the external walls of the structure, unless otherwise approved by the Fire Code Official.

Section 503.2.1; change to read as follows:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 24 feet (7315 mm), exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 14 feet (4267 mm).

Exception:

1. When approved by the Fire Code Official, vertical clearance may be reduced; provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance.

Section 503.2.3; change Section 503.2.3 to read as follows:

503.2.3 Surface. Fire apparatus access roads shall be designed in accordance with the City of San Marcos Engineering Standards and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.

Section 503.2.4; change to read as follows:

Section 503.2.4; change Section 503.2.4 to read as follows:

503.2.4 Turning radius. The required turning radius of a fire apparatus access road shall be in accordance with:

1. For buildings less than 30-feet and less than 3 stories in height:
 - a. 20-feet (inside) for turns less than or equal to 90 degrees
 - b. 25-feet (inside) for turns greater than 90 degrees
2. For buildings 30-feet or more and/or 3 or more stories in height minimum interior turning radius of 30 feet.

For purposes of this section, the building height is measured from the lowest finished grade of the fire access roads to the point of accessible roof level, including parapet walls. For buildings with pitched roofs, the height is measured to the roof plate.

Section 503.3; change to read as follows:

503.3 Marking. Striping, signs, or other markings, when approved by the fire code official, shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Striping, signs and other markings shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

Examples of acceptable markings:

1. Striping - Fire apparatus access roads shall be continuously marked by painted lines of red traffic paint six inches (6") in width to show the boundaries of the lane. The words "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" shall appear in four inch (4") white letters at 25 feet intervals on the red border markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the vertical face of the curb.
2. Signs - Signs shall read "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" and shall be 12" wide and 18" high. Signs shall be painted on a white background with letters and borders in red, using not less than 2" lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be six feet, six inches (6'6") above finished grade. Signs shall be spaced not more than fifty feet (50') apart along both sides of the fire lane. Signs may be installed on permanent buildings or walls or as approved by the Fire Code Official.

Section 503.6 is amended to read as follows:

503.6. Gates. All gates that obstruct emergency access roads or drives, whether on public or private property, must be permitted by the fire code official and approved by the fire chief. Where gates are installed across fire access roads they shall have an approved means of emergency operation. The gates and the emergency operation shall be maintained operational

at all times. Electric gate operators, where provided, shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F2200.

Section 505.1; change to read as follows:

505.1 Address Identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 12 inches (304.8 mm) high with a minimum stroke width of ½ inch (12.7 mm). Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road, buildings do not immediately front a street, and/or the building cannot be viewed from the public way, a monument, pole or other sign with approved 6 inch (152.4 mm) height building numerals or addresses and 4 inch (101.6 mm) height suite/apartment numerals of a color contrasting with the background of the building or other approved means shall be used to identify the structure. Numerals or addresses shall be posted on a minimum 20 inch (508 mm) by 30 inch (762 mm) background on border. Address identification shall be maintained.

Exceptions:

1. R-3 Single Family occupancies shall have approved numerals of a minimum 3 ½ inches (88.9 mm) in height and a color contrasting with the background clearly visible and legible from the street fronting the property and rear alleyway where such alleyway exists.
2. Structures located within the historic district may utilize a minimum of 6 inches (152.4 mm) high numbers as approved by the Fire Code Official.

Section 506.1; change to read as follows:

506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require one or more key boxes to be installed in approved locations. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. An approved key box shall be provided on the following structures:

1. On new and existing structures:
 - a. At fire sprinkler riser/fire pump rooms, if one is provided, or
 - b. At main entry if equipped with other automatic fire protection system.
2. On all existing commercial structures comprised of multiple tenant spaces: a single approved Key Box may serve multiple occupancies in a single building provided the box is located in an approved location and is adequately sized for the number of keys.

Section 507.1; add a new paragraph to read as follows:

Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. Existing fire hydrants on public streets are allowed to be considered

as available where streets are not provided with median dividers which cannot be crossed by fire fighters pulling hose lines.

Section 507.2.1 is amended to read as follows:

507.2.1 Private fire service mains. Private fire service mains and appurtenances shall be installed in accordance with NFPA 24 and local jurisdiction construction standards.

Section 507.4; change to read as follows:

507.4 Water Supply Test Date and Information. The water supply test used for hydraulic calculation of fire protection systems shall be conducted in accordance with NFPA 291 "Recommended Practice for Fire Flow Testing and Marking of Hydrants" and within one year of sprinkler plan submittal. The fire code official shall be notified prior to the water supply test. Water supply tests shall be witnessed by the fire code official, as required. The exact location of the static/residual hydrant and the flow hydrant shall be indicated on the design drawings. All fire protection plan submittals shall be accompanied by a hard copy of the waterflow test report, or as approved by the fire code official. Reference Section 903.3.5 for additional design requirements.

Section 507.5 is amended to read as follows:

507.5. Fire hydrant systems.

- (a) A fire hydrant is an approved national standard three-way hydrant connected to six-inch or larger water mains.
- (b) A two-way hydrant is not recognized unless it was installed before January 1, 1985 or it was installed in conjunction with nationally approved sprinkler systems.
- (c) Fire hydrants shall conform to the latest version of the AWWA Standard for Dry Barrel Fire Hydrants.
- (d) Fire hydrants shall have one 4.5 inch steamer and two 2.5 inch side connections with National Standard threads. The centerline of the steamer connection shall be a minimum of 18 inches above the ground surface.
- (e) The City of San Marcos Water Department shall have the authority to develop and approve new fire hydrant installation methods and standards consistent with the application of this section.
- (f) Hydrants shall be installed in accordance with local jurisdiction construction standards.

Section 507.5.1.2; add new sections to read as follows:

507.5.1.2 Intersections. Fire hydrants shall be at every street intersection, or as otherwise required by the fire code official.

507.5.1.2.1 Location. Fire hydrants shall be located within 6 feet of the edge of the pavement unless the fire department determines another location is acceptable for fire department use.

Section 507.5.2 is amended by adding the following:

507.2.1 Cost. The cost of maintaining fire hydrants on private property will be the burden of the occupant and/or owner of that property.

Section 507.5 is amended by adding the following:

507.5.7. Marking. The location of all fire hydrants shall be identified with a blue reflective road dot placed near the center of the roadway in front of the hydrant.

Section 508.1.6.12 is amended by adding the following:

- 12.1 Any or all of the above documents will be placed in a wall mounted document box, as prescribed by the fire code official. No documents or other such items, other than those required by the fire code official, will be permitted to be stored in this cabinet.

Section 509.1.2; add new Section 509.1.2 to read as follows:

509.1.2 Sign Requirements. Unless more stringent requirements apply, lettering for signs required by this section shall have a minimum height of 2 inches (50.8 mm) when located inside a building and 6 inches (101.6 mm) when located outside, or as approved by the fire code official. The letters shall be of a color that contrasts with the background.

Section 609.2; change to read as follows:

609.2 Where Required. A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors, including but not limited to cooking equipment used in fixed, mobile, or temporary concessions, such as trucks, buses, trailers, pavilions, or any form of roofed enclosure, as required by the fire code official.

Exceptions:

1. Tents, as provided for in Chapter 31.
2. {No change to existing Exception.}

Additionally, fuel gas and power provided for such cooking appliances shall be interlocked with the extinguishing system, as required by Section 904.12.2. Fuel gas containers and piping/hose shall be properly maintained in good working order and in accordance with all applicable regulations.

Section 901.4 change to read as follows:

901.4.7 Wall Mounted Document Box. A wall mounted document box shall be placed in fire sprinkler riser rooms or at any fire alarm control unit. Documents stored in this box shall include building floor plans, alarm plans, sprinkler plans and any other documents required by the fire code official.

Section 901.6.3; add Sections 901.6.3 and 901.6.3.1 to read as follows:

901.6.3 False Alarms and Nuisance Alarms. False alarms and nuisance alarms shall not be given, signaled or transmitted or caused or permitted to be given, signaled or transmitted in any manner.

901.6.3.1 False Alarm and Nuisance Alarm Penalty. The owner or manager of an occupancy in which the fire alarm system signals or transmits more than three false alarms, as the result of

a mechanical, electrical, or component failure within the alarm system, in any rolling 12-month period shall be fined as follows for subsequent false or nuisance alarm beyond the third false or nuisance alarm in the rolling 12-month period:

- a) fourth false or nuisance alarm shall be fined at \$500
- b) fifth false or nuisance alarm shall be fined at \$1,000
- c) sixth and all subsequent false or nuisance alarms shall be fined at \$1,500.

False alarms as the result of weather related activation or false alarms caused by the initiation of the alarm system by the activation of a manual pull station, or the activation by a person(s) tampering with a detection or signaling device or component of the alarm system, shall not be subject to penalty.

Section 903.2.9; add Section 903.2.9.3 to read as follows:

903.2.9.3 Self-Service Storage Facility. An automatic sprinkler system shall be installed throughout all self-service storage facilities.

Exception: One-story self-storage facilities that have no interior corridors.

Section 903.2.10; change to read as follows:

903.2.10 Group S-2 enclosed parking garages. An automatic sprinkler system shall be provided throughout buildings classified as enclosed parking garages in accordance with Section 406.4 of the International Building Code or where located beneath other groups.

Section 903.3.1.2.3; add section to read as follows:

Section 903.3.1.2.3 Attics and Attached Garages. Sprinkler protection is required in attic spaces of such buildings three or more stories in height, in accordance with NFPA 13 and or NFPA 13R requirements, and attached garages.

Section 903.3.1.2.4; add section to read as follows:

Section 903.3.1.2.4 Exterior closets. Sprinkler protection shall be provided in closets (regardless of size) that are accessible from the exterior of the building.

Section 903.3.1.4; add to read as follows:

903.3.1.4 Freeze protection. Freeze protection systems for automatic fire sprinkler systems shall be in accordance with the requirements of the applicable referenced NFPA standard and this section.

903.3.1.4.1 Attics. Only dry-pipe, preaction, or listed antifreeze automatic fire sprinkler systems shall be allowed to protect attic spaces.

Exception: Wet-pipe fire sprinkler systems shall be allowed to protect non-ventilated attic spaces where:

1. The attic sprinklers are supplied by a separate floor control valve assembly to allow ease of draining the attic system without impairing sprinklers throughout the rest of the building, and

2. Adequate heat shall be provided for freeze protection as per the applicable referenced NFPA standard, and
3. The attic space is a part of the building's thermal, or heat, envelope, such that insulation is provided at the roof deck, rather than at the ceiling level.

Section 903.3.5; add a second paragraph to read as follows:

Water supply as required for such systems shall be provided in conformance with the supply requirements of the respective standards; however, every water-based fire protection system shall be designed with a 5 psi safety factor. Reference Section 507.4 for additional design requirements.

Section 903.4; add a second paragraph after the exceptions to read as follows:

Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than 45 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

Section 903.4.2; add second paragraph to read as follows:

The alarm device required on the exterior of the building shall be a weatherproof horn/strobe notification appliance with a minimum 75 candela strobe rating, installed as close as practicable to the fire department connection.

Section 905.2; change to read as follows:

905.2 Installation Standard. Standpipe systems shall be installed in accordance with this section and NFPA 14. Manual dry standpipe systems shall be supervised with a minimum of 10 psig and a maximum of 40 psig air pressure with a high/low alarm.

Section 905.3; add Section 905.3.9 and exception to read as follows:

905.3.9 Buildings Exceeding 10,000 sq. ft. In buildings exceeding 10,000 square feet in area per story and where any portion of the building's interior area is more than 200 feet (60960 mm) of travel, vertically and horizontally, from the nearest point of fire department vehicle access, Class I automatic wet or manual wet standpipes shall be provided.

Exceptions:

1. Automatic dry and semi-automatic dry standpipes are allowed as provided for in NFPA 14.
2. R-2 occupancies of four stories or less in height having no interior corridors.

Section 905.4, change Item 1, 3, and 5, and add Item 7 to read as follows:

1. In every required exit stairway, a hose connection shall be provided for each story above and below grade plane. Hose connections shall be located at an intermediate landing between stories, unless otherwise approved by the fire code official.
2. {No change.}

3. In every exit passageway, at the entrance from the exit passageway to other areas of a building.

Exception: Where floor areas adjacent to an exit passageway are reachable from an exit stairway hose connection by a {No change to rest.}

4. {No change.}
5. Where the roof has a slope less than four units vertical in 12 units horizontal (33.3-percent slope), each standpipe shall be provided with a two-way hose connection located to serve the roof or at the highest landing of an exit stairway with stair access to the roof provided in accordance with Section 1011.12.
6. {No change.}
7. When required by this Chapter, standpipe connections shall be placed at two hundred feet (200') intervals along major corridors thereafter, or as otherwise approved by the fire code official.

Section 905.9; add a second paragraph after the exceptions to read as follows:

Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than 45 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

Section 906.1 is amended by deleting the exception.

Section 907.1; add Section 907.1.4 to read as follows:

907.1.4 Design Standards. Where a new fire alarm system is installed, the devices shall be addressable. Fire alarm systems utilizing more than 20 smoke detectors shall have analog initiating devices.

Section 907.2.1; change to read as follows:

907.2.1 Group A. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group A occupancies having an occupant load of 300 or more persons or more than 100 persons above or below the lowest level of exit discharge. Group A occupancies not separated from one another in accordance with Section 707.3.10 of the International Building Code shall be considered as a single occupancy for the purposes of applying this section. Portions of Group E occupancies occupied for assembly purposes shall be provided with a fire alarm system as required for the Group E occupancy.

Exception: {No change.}

Activation of fire alarm notification appliances shall:

1. Cause illumination of the means of egress with light of not less than 1 foot-candle (11 lux) at the walking surface level, and
2. Stop any conflicting or confusing sounds and visual distractions.

Section 907.2.3; change to read as follows:

907.2.3. Group E. A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E educational occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. An approved smoke detection system shall be installed in Group E day care occupancies. Unless separated by a minimum of 100' open space, all buildings, whether portable buildings or the main building, will be considered one building for alarm occupant load consideration and interconnection of alarm systems.

Exceptions:

1. {No change.}
 - 1.1. Residential In-Home day care with not more than 12 children may use interconnected single station detectors in all habitable rooms. (For care of more than five children 2 1/2 or less years of age, see Section 907.2.6.) {No change to remainder of exceptions.}

Section 907.2.13, Exception 3; change to read as follows:

3. Open air portions of buildings with an occupancy in Group A-5 in accordance with Section 303.1 of the International Building Code; however, this exception does not apply to accessory uses including but not limited to sky boxes, restaurants, and similarly enclosed areas.

Section 907.4.2; add Section 907.4.2.7 to read as follows:

907.4.2.7 Type. Manual alarm initiating devices shall be an approved double action type.

Section 907.6.1; add Section 907.6.1.1 to read as follows:

907.6.1.1 Wiring Installation. All fire alarm systems shall be installed in such a manner that a failure of any single initiating device or single open in an initiating circuit conductor will not interfere with the normal operation of other such devices. All signaling line circuits (SLC) shall be installed in such a way that a single open will not interfere with the operation of any addressable devices (Class A). Outgoing and return SLC conductors shall be installed in accordance with NFPA 72 requirements for Class A circuits and shall have a minimum of four feet separation horizontal and one foot vertical between supply and return circuit conductors. The initiating device circuit (IDC) from a signaling line circuit interface device may be wired Class B, provided the distance from the interface device to the initiating device is ten feet or less.

Section 907.6.3; delete all four Exceptions.

Section 909.22; add to read as follows:

909.22 Stairway or Ramp Pressurization Alternative. Where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 and the stair pressurization alternative is chosen for compliance with Building Code requirements for a smokeproof enclosure, interior exit stairways or ramps shall be pressurized to a minimum of

0.10 inches of water (25 Pa) and a maximum of 0.35 inches of water (87 Pa) in the shaft relative to the building measured with all interior exit stairway and ramp doors closed under maximum anticipated conditions of stack effect and wind effect. Such systems shall comply with Section 909, including the installation of a separate fire-fighter's smoke control panel as per Section 909.16, and a Smoke Control Permit shall be required from the fire department as per Section 105.7.

909.22.1 Ventilating equipment. The activation of ventilating equipment for the stair or ramp pressurization system shall be by smoke detectors installed at each floor level at an approved location at the entrance to the smokeproof enclosure. When the closing device for the stairway or ramp shaft and vestibule doors is activated by smoke detection or power failure, the mechanical equipment shall activate and operate at the required performance levels. Smoke detectors shall be installed in accordance with Section 907.3.

909.22.1.1 Ventilation Systems. Smokeproof enclosure ventilation systems shall be independent of other building ventilation systems. The equipment, control wiring, power wiring and ductwork shall comply with one of the following:

1. Equipment, control wiring, power wiring and ductwork shall be located exterior to the building and directly connected to the smokeproof enclosure or connected to the smokeproof enclosure by ductwork enclosed by not less than 2-hour fire barriers constructed in accordance with Section 707 of the Building Code or horizontal assemblies constructed in accordance with Section 711 of the Building Code, or both.
2. Equipment, control wiring, power wiring and ductwork shall be located within the smokeproof enclosure with intake or exhaust directly from and to the outside or through ductwork enclosed by not less than 2-hour barriers constructed in accordance with Section 707 of the Building Code or horizontal assemblies constructed in accordance with Section 711 of the Building Code, or both.
3. Equipment, control wiring, power wiring and ductwork shall be located within the building if separated from the remainder of the building, including other mechanical equipment, by not less than 2-hour fire barriers constructed in accordance with Section 707 of the Building Code or horizontal assemblies constructed in accordance with Section 711 of the Building Code, or both.

Exceptions:

1. Control wiring and power wiring utilizing a 2-hour rated cable or cable system.
2. Where encased with not less than 2 inches (51 mm) of concrete.
3. Control wiring and power wiring protected by a listed electrical circuit protective system with a fire-resistance rating of not less than 2 hours.

909.22.1.2 Standby Power. Mechanical vestibule and stairway and ramp shaft ventilation systems and automatic fire detection systems shall be provided with standby power in accordance with Section 2702 of the Building Code.

909.22.1.3 Acceptance and Testing. Before the mechanical equipment is approved, the system shall be tested in the presence of the fire code official to confirm that the system is operating in compliance with these requirements.

Section 910.2; change Exception 2 and 3 to read as follows:

2. Only manual smoke and heat removal shall be required in areas of buildings equipped with early suppression fast-response (ESFR) sprinklers. Automatic smoke and heat removal is prohibited.

3. Only manual smoke and heat removal shall be required in areas of buildings equipped with control mode special application sprinklers with a response time index of $50(m^*S)^{1/2}$ or less that are listed to control a fire in stored commodities with 12 or fewer sprinklers. Automatic smoke and heat removal is prohibited.

Section 910.2; add subsections 910.2.3 with exceptions to read as follows:

910.2.3 Group H. Buildings and portions thereof used as a Group H occupancy as follows:

1. In occupancies classified as Group H-2 or H-3, any of which are more than 15,000 square feet (1394 m²) in single floor area.

Exception: Buildings of noncombustible construction containing only noncombustible materials.

2. In areas of buildings in Group H used for storing Class 2, 3, and 4 liquid and solid oxidizers, Class 1 and unclassified detonable organic peroxides, Class 3 and 4 unstable (reactive) materials, or Class 2 or 3 water-reactive materials as required for a high-hazard commodity classification.

Exception: Buildings of noncombustible construction containing only noncombustible materials.

Section 910.3; add section 910.3.4 to read as follows:

910.3.4 Vent Operation. Smoke and heat vents shall be capable of being operated by approved automatic and manual means. Automatic operation of smoke and heat vents shall conform to the provisions of Sections 910.3.2.1 through 910.3.2.3.

910.3.4.1 Sprinklered buildings. Where installed in buildings equipped with an approved automatic sprinkler system, smoke and heat vents shall be designed to operate automatically. The automatic operating mechanism of the smoke and heat vents shall operate at a temperature rating at least 100 degrees F (approximately 38 degrees Celsius) greater than the temperature rating of the sprinklers installed.

Exception: Manual only systems per Section 910.2.

910.3.4.2 Nonsprinklered Buildings. Where installed in buildings not equipped with an approved automatic sprinkler system, smoke and heat vents shall operate automatically by actuation of a heat-responsive device rated at between 100°F (56°C) and 220°F (122°C) above ambient.

Exception: Listed gravity-operated drop out vents.

Section 912.2; add Section 912.2.3 to read as follows:

912.2.3 Hydrant Distance. An approved fire hydrant shall be located within 100 feet of the fire department connection as the fire hose lays along an unobstructed path.

Section 912.4.1; change to read as follows:

912.4.1 Locking fire department connection caps. Approved, locking caps shall be installed on any fire department connection that is installed as a result of new construction. Additionally, where remodeling of a building or structure requires the addition of an approved sprinkler or standpipe system, locking caps shall be installed. Where fire department connections exist on current buildings but the caps are missing or damaged, they must be replaced with locking caps, as approved by the fire code official.

Section 913.1; add second paragraph and exception to read as follows:

When located on the ground level at an exterior wall, the fire pump room shall be provided with an exterior fire department access door that is not less than 3 ft. in width and 6 ft. - 8 in. in height, regardless of any interior doors that are provided. A key box shall be provided at this door, as required by Section 506.1.

Exception: When it is necessary to locate the fire pump room on other levels or not at an exterior wall, the corridor leading to the fire pump room access from the exterior of the building shall be provided with equivalent fire resistance as that required for the pump room, or as approved by the fire code official. Access keys shall be provided in the key box as required by Section 506.1.

Section 1010.1.9.4 Bolt Locks; change Exceptions 3 and 4 to read as follows:

Exceptions:

3. Where a pair of doors serves an occupant load of less than 50 persons in a Group B, F, M or S occupancy. {Remainder unchanged}
4. Where a pair of doors serves a Group A, B, F, M or S occupancy. {Remainder unchanged}

Section 1015.8 Window Openings; change number 1 to read as follows:

1. Operable windows where the top of the sill of the opening is located more than 55 feet (16 764 mm) above the finished grade or other surface below and that are provided with window fall prevention devices that comply with ASTM F 2006.

Section 1031.2; change to read as follows:

1031.2 Reliability. Required exit accesses, exits and exit discharges shall be continuously maintained free from obstructions or impediments to full instant use in the case of fire or other emergency. An exit or exit passageway shall not be used for any purpose that interferes with a means of egress.

Section 1103.7; add Section 1103.7.8 and 1103.7.8.1 to read as follows:

1103.7.8 Fire Alarm System Design Standards. Where an existing fire alarm system is upgraded or replaced, the devices shall be addressable. Fire alarm systems utilizing more than 20 smoke and/or heat detectors shall have analog initiating devices.

Exception: Existing systems need not comply unless the total building, or fire alarm system, remodel or expansion exceeds 30% of the building. When cumulative building, or fire alarm system, remodel or expansion initiated after the date of original fire alarm

panel installation exceeds 50% of the building, or fire alarm system, the fire alarm system must comply within 18 months of permit application.

1103.7.8.1 Communication requirements. Refer to Section 907.6.6 for applicable requirements.

Table 3206.2, footnote j; change text to read as follows:

j. Where storage areas are protected by either early suppression fast response (ESFR) sprinkler systems or control mode special application sprinklers with a response time index of 50 (m • s) ¹/₂ or less that are listed to control a fire in the stored commodities with 12 or fewer sprinklers, installed in accordance with NFPA 13, manual smoke and heat vents or manually activated engineered mechanical smoke exhaust systems shall be required within these areas.

Section 3310.3, add Section 3310.3:

3310.3 Fencing. Where construction or demolition sites have fencing or some other type of security barrier installed around the site, an approved padlock shall be installed on no less than one gate. Approved padlocks may be required by the fire code official on additional gates. These padlocks shall be purchased by the property owner or contractor but shall be keyed, as directed, by the fire code official.

Section 5601.1.3; add second paragraph and exception to read as follows:

The possession, manufacture, storage, handling and use of fireworks are prohibited outside the city limits for a distance of five thousand (5,000) feet, provided that the territory encompassed within the five thousand (5,000) feet outside the city limits is not within the extraterritorial jurisdiction of another municipality. A violation of this ordinance is declared to be a common and public nuisance. The owner, lessee or occupant of the property or structure where fireworks are being stored or used shall be deemed responsible for violation of this section.

Exceptions:

5. The possession of fireworks otherwise allowed by State Law.

Section 5703.6; add a sentence to read as follows:

5703.6 Piping Systems. Piping systems, and their component parts, for flammable and combustible liquids shall be in accordance with Sections 5703.6.1 through 5703.6.11. An approved method of secondary containment shall be provided for underground tank and piping systems.

Section 5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited): [JURISDICTION TO SPECIFY]

5704.2.9.6.1 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited otherwise by City of San Marcos Ordinance.

Section 5704.2.11.4; add a sentence to read as follows:

5704.2.11.4 Leak Prevention. Leak prevention for underground tanks shall comply with Sections 5704.2.11.4.1 through 5704.2.11.4.3. An approved method of secondary containment shall be provided for underground tank and piping systems.

Section 5704.2.11.4.2; change to read as follows:

5704.2.11.4.2 Leak Detection. Underground storage tank systems shall be provided with an approved method of leak detection from any component of the system that is designed and installed in accordance with NFPA 30 and as specified in Section 5704.2.11.4.3.

Section 5704.2.11.4; add Section 5704.2.11.4.3 to read as follows:

5704.2.11.4.3 Observation Wells. Approved sampling tubes of a minimum 4 inches in diameter shall be installed in the backfill material of each underground flammable or combustible liquid storage tank. The tubes shall extend from a point 12 inches below the average grade of the excavation to ground level and shall be provided with suitable surface access caps. Each tank site shall provide a sampling tube at the corners of the excavation with a minimum of 4 tubes. Sampling tubes shall be placed in the product line excavation within 10 feet of the tank excavation and one every 50 feet routed along product lines towards the dispensers, a minimum of two are required.

Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): [JURISDICTION TO SPECIFY]

5706.2.4.4 Locations where above-ground tanks are prohibited. The storage of Class I and II liquids in above-ground tanks is prohibited within the limits established by law as the limits of districts in which such storage is prohibited otherwise by City of San Marcos Ordinance.

Section 5806.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): [JURISDICTION TO SPECIFY]

5806.2 Limitations. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited otherwise by City of San Marcos Ordinance.

Section 6104.2: delete.

Appendix B, Section B103.1; change to read as follows:

B103.1 Decreases. The fire code official is authorized to reduce the fire-flow requirements for isolated buildings or a group of buildings in rural areas or small communities where the development of full fire-flow requirements is impractical.

Appendix B, Section B103.2; change to read as follows:

B103.2 Increases. The fire code official is authorized to increase the fire-flow requirements where conditions indicate an unusual susceptibility to group fires or conflagrations. An increase shall not be more than twice that required for the building under consideration.

Appendix D, Section D102.1; change to read as follows:

D102.1 Access and loading. Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34 050 kg) in accordance with the City of San Marcos Engineering Standards.

Appendix D, Section D103.1; change to read as follows:

D103.1 Access road width with a hydrant. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26-feet.

Appendix D, Section D103.2; change to read as follows:

D103.2 Grade. Fire apparatus access roads shall not exceed 10% in grade and not exceed 5% on cross-slope.

Exception: Grades steeper than 10% as approved by the Fire Code Official.

Appendix D, Section D103.3; change to read as follows:

D103.3 Turning radius. The minimum turning radius shall be in accordance with:

1. For buildings less than 30-feet and less than 3 stories in height:
 - a. 20-feet (inside) for turns less than or equal to 90 degrees
 - b. 25-feet (inside) for turns greater than 90 degrees
2. For buildings 30-feet or more and/or 3 or more stories in height minimum interior turning radius of 30 feet.

For purposes of this section, the building height is measured from the lowest finished grade of the fire access roads to the point of accessible roof level, including parapet walls. For buildings with pitched roofs, the height is measured to the roof plate.

Appendix D, Section D103.5; change to read as follows:

D103.5 Fire apparatus access road gates. Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. Where a single gate is provided, the gate width shall be not less 24 feet. Where a fire apparatus road consists of a divided roadway, the gate width shall be not less than 12 feet (3658 mm).
2. Gates shall be of the swinging or sliding type.
3. Construction of gates shall be of materials that allow manual operation by one person.
4. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the fire code official.
6. Methods of locking shall be submitted for approval by fire code official.
7. Electric gate operators, where provided, shall be listed in accordance with UL 325.
8. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200.

Appendix D, Section D105.2; change to read as follows:

D105.2 Width. Aerial fire apparatus access roads shall have a minimum unobstructed width of 26 feet.

ORDINANCE NO. 2015 - 10

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SAN MARCOS, TEXAS REVISING AND UPDATING
ARTICLE 3, STANDARDS, OF CHAPTER 38, FIRE
PREVENTION AND PROTECTION, OF THE CITY CODE;
INCLUDING PROCEDURAL PROVISIONS; AND
PROVIDING FOR PENALTIES.**

RECITALS:

1. In 2005, the city adopted the 2003 International Fire Code to maintain a consistent standard of construction on a national level. Since that time, our city maintains an update of codes on a five year cycle.
2. In an effort to maintain ISO accreditation and keep up with current national standards, the city needs to maintain a current adoption of code.
3. The City Council wishes to adopt this International Fire Code, along with the other codes in the International Code series, together with changes to the International Fire Code to reflect the City's unique needs.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Article 3, Standards, of Chapter 38, Fire Prevention and Protection, of the City Code is repealed in its entirety and is replaced by the following:

ARTICLE 3. STANDARDS

Sec. 38.051. Definitions.

In this article:

Applicable governing body means the city council.

Board of adjustments and appeals or *board* means the construction board of adjustments and appeals established in chapter 14.

Building code means the building code adopted in section 14.002.

Code official means the fire marshal.

Fire code means the fire code adopted in section 38.052.

Fire official means the fire marshal.

Hazardous material means any substance or materials which pose an unreasonable or imminent risk to life, health or safety of persons, property or the ecological balance of the environment. The term includes, but is not limited to, explosives, radioactive materials, petroleum or petroleum products, gases, poisons, etiologic agents, flammables, and corrosives.

Mechanical code means the mechanical code adopted in section 14.002.

Plumbing code means the plumbing code adopted in section 14.002.

Sec. 38.052. Fire code adopted.

The International Fire Code 2015 Edition, including Appendixes B, D, E, F, G, I and J is adopted. A copy of this code with appendices is filed in the city secretary's office.

Sec. 38.053. Amendments.

The International Fire Code adopted in section 38.052 is amended as follows:

Section 101 is amended by adding the following:

101.1 Title. These regulations shall be known as the Fire Code of the City of San Marcos, hereinafter referred to as "this code".

101.6 Nothing within this code shall be construed as limiting the application and enforcement of this code in areas such as Extra-Territorial Jurisdiction (ETJ) as may be allowed by local, state, or federal laws, ordinances, or codes.

Section 102.6 is amended by adding the following subsection:

102.6.1. The exemptions provided by 102.6 shall apply only to the portion of the building designated as historical or comply with section 1103.1.1 whichever is more restrictive.

Section 102.6-7 is amended to read as follows:

102.67. Referenced code and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 45 and such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between the provisions of this code and the

referenced standards, the more stringent provision shall apply. This determination shall be made by the fire code official.

~~102.7.1 Where the code references the International Existing Building Code, the reference shall be the International Building Code and the International Fire Code. Where the code references the International Electric Code, the reference shall be the National Electric Code, 2002 2008 edition.~~

Section 103.2 is amended to read as follows:

103.2 Appointment. The fire code official shall be appointed in accordance with the prescribed procedures of this jurisdiction.

Section 105.6.302 is deleted.

Section 105.6.357 is amended by deleting the exception.

~~*Section 105.6.38 is deleted.*~~

Section 107.45 is amended to read as follows:

107.4.5 Rendering equipment inoperable.

(a) Portable or fixed fire-extinguishing systems or devices and fire-warning systems shall not be rendered inoperative or inaccessible except as necessary during emergencies, maintenance, repairs, alterations, drills or prescribed testing.

(b) No fire protection system may be taken out of service or allowed to remain out of service beyond normal working hours without the prior approval of the fire code official. The fire code official shall be notified prior to any fire sprinkler or standpipe system being temporarily or permanently removed from service. No operation protected by a fire suppression system may be used or operated while the fire suppression system is out of service.

Section 108.1 is amended to read as follows:

108.1. Construction board of adjustments and appeals. The construction board of adjustments and appeals will hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code.

Section 108.3 is deleted.

Section 109.3-4 is amended to read as follows:

109.3-4 Violation penalties. Persons who violate this code or who fail to comply with any of the requirements in this code, or who erect, install, alter, repair or do work in violation of the approved construction documents or contrary to the directives of the fire code official or in violation of a permit or certificate issued under provisions of this code, shall be liable for a fine up to \$2,000.

Section 110 is deleted.

Section 111.4 is amended to read as follows:

111.4. Failure to comply. Any person who continues work after having been served with a stop work order, except such work the fire code official has directed to be performed to remedy a violation or unsafe condition, shall be liable for a fine not to exceed \$2,000. Each day that a violation continues after notice of violation has been served shall be deemed a separate offense.

The following definitions in Section 202 are amended to read as follows:

~~*Facility.* A building or use in a fixed location, including exterior storage areas, piers, wharves, tank farms, and similar uses. This term includes recreational vehicles, mobile home parks, manufactured housing parks, sales lots, and storage lots.~~

Fire code official. The fire marshal or a duly authorized representative.

Section 307.1 is amended to read as follows:

307.1. Open burning prohibited. No person shall burn material in the city limits.

Section 308.1.4 is amended to read as follows:

308.1.4. Outdoor cooking. It is unlawful to use or to store a charcoal burner, open flame, LP gas burner, outdoor grill, barbecue, or other outdoor cooking appliance with open flame on the premises of a residential building with three or more dwelling units or of a multifamily residential building with two or more stories. The provision does not apply to the use of permanently mounted outdoor cooking devices located ten or more feet from any structure.

Section 315.23 is amended by adding the following subsection:

315.23.5. High-piled combustible storage. High-piled combustible storage shall

comply with section 2301.

Section 401.1 is amended by deleting the exception.

Section 403 is amended by adding the following:

403.13.2 (10.) The need for additional bathroom facilities and parking plans. (11.) The need for other specific requirements as prescribed by the fire official.

403.2.2.12.3.4 Enforceability. The public safety plan, as described in 403.2.12.2 and approved by the fire official, shall be complied with and is enforceable under provisions of this code. Any violation of the plan shall be punishable by a fine of at least \$500.00.

~~*Section 503.1.1* is amended to read as follows:~~

~~503.1.1. Buildings and Facilities. Approved fire apparatus access roads shall be provided for every facility, building, or portion of a building. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45,720 mm) of all portions of the facility or any portion of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility.~~

~~Exception: The fire code official is authorized to increase the dimension of 150 feet (45,720 mm) where:~~

- ~~1. The building is equipped throughout with an approved automatic sprinkler system installed in accordance with section 903.1.1.1, 903.3.1.2 or 903.3.1.3;~~
- ~~2. Fire apparatus access roads cannot be installed due to location on property, topography, waterways, non negotiable grades or other similar conditions, and an approved alternative means of fire protection is provided; or~~
- ~~3. There are not more than two Group R-3 or Group U occupancies.~~

Section 503.2 is amended to read as follows:

503.2 Specifications. Fire apparatus access roads shall be installed and arranged in accordance with Sections 503.2.1 through 503.2.78 and Appendix D.

Section 503.2.2 is amended to read as follows:

503.2.2. Authority. The fire code official shall have the authority to require an

increase or permit a decrease in the minimum access widths if the fire code official deems the change appropriate for the specific location.

Section 503.3 is amended to read as follows:

503.3. Marking. Approved markings, signs, or other notices to identify such roads or prohibit the obstruction thereof shall be provided for fire apparatus access roads. The Fire code official shall provide the acceptable standards and specifications. Signs, markings, and other notices shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

Section 503.4 is amended by adding the following exception:

Exception: Where specifically allowed by the fire code official.

Section 503.6 is amended to read as follows:

503.6. Gates. All gates that obstruct emergency access roads or drives, whether on public or private property, must be permitted by the fire code official. All gates or obstructions must comply with written installation standards and maintenance requirements as set forth by the fire code official.

Section 503 is amended by adding the following:

503.7. Access. All gates that have access codes, locks, key controls, or other obstructions shall be maintained in an operable condition so that they can be opened by the fire department or other emergency service when needed. Failure to maintain these gates in an operable condition may result in the imposition of a fine and/or revocation of the gate permit.

Section 505.1 is amended to read as follows:

505.1. Address numbers. New and existing buildings shall have their address numbers, building numbers, or building identification placed in a position to be plainly legible and visible from the street or road fronting the property. The numbers and letters shall contrast with their background and shall be a minimum of six inches in height for commercial buildings and three inches in height for residential building. The numbers and letters shall have a minimum stroke width of 0.5 inches (12.7 mm). Where the building cannot be viewed from the public way, an approved alternate means may be used to identify the structure.

Section 506 is amended by adding the following subsection:

506.3. Location. Lock boxes approved by the fire code official shall be installed in all new buildings that have fire sprinkler systems, alarm systems, or other fire protection systems that are connected to an alarm service.

Section 507.2.1 is amended to read as follows:

507.2.1 Private fire service mains. Private fire service mains and appurtenances shall be installed in accordance with NFPA 24 and local jurisdiction construction standards.

Section 507.3 is amended to read as follows:

507.3. Fire flow. The purpose of this section is to provide direction for the design and installation of fire service and water utilities. This section shall be used in conjunction with all other adopted and referenced codes and standards. If this section conflicts with other codes or standards, the most restrictive shall apply.

507.3.1. Definitions. For the purposes of this section, the following words shall have the meanings shown herein.

Commercial means the use of a building or structure for commercial operations including, but not limited to, hotels, motels, apartments, and dwellings excluding one and two family dwellings.

Residential means a one or two family dwelling.

507.3.2. Fire flows required.

(a) Every fire hydrant shall be capable of providing a minimum flow of 500 gpm in areas used for residential and 1500 gpm in areas used for commercial or industrial.

(b) Fire hydrant flows determine by the Insurance Services Organization's (ISO) Fire Suppression Rating Schedule shall be provided for all new buildings and changes of occupancy classification in existing buildings. Calculations are in Appendix B.

(c) Fire hydrant flows for buildings provided with fire sprinkler systems shall either meet the requirements of subsection (b) or not be less than the required flow of the sprinkler system plus 500 gpm.

(d) The flow requirements listed in this section shall be met with a minimum of 20 pounds per square inch residual. This residual must be maintained in residential, commercial, and industrial areas. Flow in residential areas is to be calculated at 1.5 gpm per living unit.

(e) If the fire code official determines that an occupancy is of a hazardous nature, or if special hazards exist in addition to the normal hazard of the occupancy, section 901 of the International Fire Code shall apply.

Section 507.5 is amended to read as follows:

507.5. Fire hydrant systems.

(a) A fire hydrant is an approved national standard three-way hydrant connected to six-inch or larger water mains.

(b) A two-way hydrant is not recognized unless it was installed before January 1, 1985 or it was installed in conjunction with nationally approved sprinkler systems.

(c) Fire hydrants shall conform to the latest version of the AWWA Standard for Dry Barrel Fire Hydrants.

(d) Fire hydrants shall have one 4.5 inch steamer and two 2.5 inch side connections with National Standard threads. The centerline of the steamer connection shall be a minimum of 18 inches above the ground surface.

(e) Hydrants must be located so that no portion of any new structure is more than 500 feet, as the hose lies, on accessible approved roadways.

(f) Hydrants shall be spaced no less than every 500 feet in residentially zoned areas and no less than one every 300 feet in commercially and industrially zoned areas.

(g) The City of San Marcos Water Department shall have the authority to develop and approve new fire hydrant installation methods and standards consistent with the application of this section.

(h) Hydrants shall be installed in accordance with local jurisdiction construction standards.

Section 507.5.1 is amended to read as follows:

507.5.1 Where required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 500 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.

Section 507.5.2 is amended by adding the following:

507.2.1 Cost. The cost of maintaining fire hydrants on private property will be the burden of the occupant and/or owner of that property.

Section 507.5.3 amended by adding the following subsection:

507.5.3.1 Water main standards required.

(a) Water mains shall be at least eight inches and large enough to supply the required fire flows. All developers shall provide an engineer certified computer model or hand calculation to the fire and engineering departments. The model or calculation shall indicate the minimum fire flows that will be met. Existing mains shall come into compliance with this requirement when they undergo major repairs or when the fire flow demands of new construction or new occupancy classifications in existing construction exceed the existing fire flows.

(b) New eight-inch dead-end main more than 1320 feet long must be looped.

(c) New eight-inch looped main shall not exceed 2500 feet, unless approved by the fire and engineering departments.

(d) Any six-inch lead lines for hydrants cannot exceed 100 foot and, in no case, reduce the amount of required fire flow. Six-inch lines are not permitted for use as a utility line or fire line for fire hydrants for commercial structures.

(e) Private fire service mains and water tanks shall be periodically inspected, periodically tested, and maintained in accordance with NFPA 25. Reports for the inspection or test shall be on a form as specified by the fire code official.

Section 507.5.4 is amended to read as follows:

507.5.4. Obstruction. Posts, fences, vehicles, growth, trash, storage, and other materials or objects shall neither be placed within five feet nor kept near fire hydrants, fire department inlet connections, or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible. No person shall place or maintain an obstruction near fire protection equipment or a fire hydrant so that the fire department is deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

Section 507.5.5 is amended to read as follows:

507.5.5 Clear space around hydrants. A 5-foot clear space shall be maintained

around the circumference of fire hydrants except as otherwise required or approved.

Section 507 is amended by adding the following:

507.5.7. Marking. The location of all fire hydrants shall be identified with a blue reflective road dot placed near the center of the roadway in front of the hydrant.

Section 604.2.14.3 is amended to read as follows:

604.2.14.3. Emergency systems. Exit signs, exit illumination as required by Chapter 10, and elevator car lighting are classified as emergency systems and shall operate within 10 seconds of failure of the normal power supply for egress lighting and shall be capable of being transferred to the standby source.

Section 605.9 is amended to read as follows:

605.9. Temporary wiring. Temporary wiring for electrical power and lighting installations is not allowed to exceed a period of 90 days. This includes decorative holiday lighting, carnivals and similar purposes. Temporary wiring methods shall meet the applicable provisions of the ICC International Electrical Code or National Electrical Code as adopted. Temporary wiring for construction purposes shall be removed at the end of construction.

Section 605 is amended by adding the following:

~~605.44.13~~ 605.13 Labels for disconnecting means. Each disconnecting means for each service feeder, or branch circuit shall be legibly marked to indicate its purpose at the point where it originates. Where the service feeder or branch is located on a building or other structure, a description of the device and address of the building must be prominently displayed utilizing a marking of sufficient durability to withstand the environment involved. A list of acceptable marking devices and labels can be obtained through the electric utility department.

Section 903.1 is amended by adding the following:

903.1.2 More restrictive section applies. Where fire sprinklers are required in other sections of this code, the most restrictive requirement will apply to methods of construction, installation, or other system requirements.

903.2.10 is amended to read as follows:

903.2.10 Group S-2. An automatic sprinkler system shall be provided throughout all buildings containing a Group S-2 occupancy where one of the following conditions exist:

1. Where a Group S-2 fire area exceeds 18,000 square feet;
Exception: Open parking garages.
2. Where the fire area of an enclosed parking garage exceeds 12,000 square feet; or
3. Where enclosed parking garages are located beneath other groups.
Exception: Enclosed parking garages located beneath Group R-3 occupancies .

Section 903.2 is amended by adding the following:

903.2.13. Other occupancy classifications. An automatic sprinkler system shall be provided throughout all buildings classified as Group B or Group F-2 having a fire area exceeding 18,000 square feet.

903.2.14 Additions and Expansions. Any building constructed after April 1, 2002 that exceeds 18,000 sq. ft. or any attached construction, alteration, or addition to an existing structure of any group that causes the structure to exceed 18,000 sq. ft. For purposes of this section, an automatic fire sprinkler system is to be installed in the non-conforming or existing structure in addition to the new construction area.

Section 903.3.1.2 is amended by adding the following:

903.3.1.2.2 Exterior closets. Sprinkler protection shall be provided in closets (regardless of size) that are accessible from the exterior of the building.

Section 903.4.5.5 Alarm Notification. All water flow monitor notifications shall be latching and remain continuous until water flow suspended.

Section 903.4.5.6 Addressable Systems. All initiation devices must be descriptive to location and use. Central reporting must be consistent to identification of location and use of area alarm system notification.

Section 906.1 is amended by deleting the exception.

Section ~~334~~401.1 is amended by adding the following:

~~334~~401.3 Permits. Permits shall be required as set forth in Section 105.7.

Section ~~334~~404.3 is amended to read as follows:

331404.3. Open burning prohibited. No person shall burn material in the city limits.

Section 3304.4 is deleted.

Section 331404.7 is amended to read as follows:

331404.7 Electrical. Temporary wiring for electrical power and lighting installations used in connection with the construction, alteration or demolition of buildings, structures, equipment or similar activities shall comply with the Section 605.9

Section 331410.1 is amended to read as follows:

331410.1 Required access. Approved vehicle access for fire fighting shall be provided to all construction or demolition sites. Vehicle access shall be provided to within 50 feet of temporary or permanent fire department connections. Vehicle access shall be provided to within 150 feet of all portions of the exterior wall of the first story of each building prior to the erection of combustible material within that building. Vehicle access shall be provided by either temporary or permanent roads capable of supporting vehicle loading under all weather conditions. Vehicle access shall be maintained until permanent fire apparatus access roads are available.

Section ~~1412~~3312.1 is amended to read as follows:

~~1412~~3312.1 When required. Water supply complying with Section 507 shall be provided within 500 feet of all portions of the exterior wall of the first story of each building prior to the erection of combustible material for that building.

Section ~~2404~~3104.15.4 is amended to read as follows:

~~2404~~3104.15.4. Operations such as the warming of foods, cooking demonstrations, and similar operations that use solid flammables, butane, or other similar devices which do not pose an ignition hazard ~~shall~~ may be approved by the fire code official.

Section ~~3301~~5601.1.3, exception 4, is deleted.

Section ~~3301~~5601.2.4 is amended to read as follows:

~~3301~~5601.2.4 Financial responsibility. Before a permit is issued, as required by Section ~~3301~~5601.2, the applicant shall file with the jurisdiction a corporate surety bond or a public liability insurance policy in such form, amount and coverage as determined by the jurisdiction to be adequate in each case, for the

purpose of the payment of all damages to persons or property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The fire code official is authorized to specify a greater or lesser amount when, in his or her opinion, conditions at the location of use indicate a greater or lesser amount is required. Government entities shall be exempt from this bond requirement.

Section ~~3308~~ 5608 is amended by adding the following:

~~3308~~ 5608.11 Retail display and sale. Fireworks shall not be displayed for retail sale nor made available to the public.

Appendix B is amended to read as follows:

Appendix B Fire Flow Calculations

The following information is a summary and is provided to assist in understanding the required fire flow calculation method. Refer to the Insurance Services Organization's (ISO) Fire Suppression Rating Schedule for actual calculations. Where any question or discrepancy exists Fire Suppression Rating Schedule should be followed.

The ISO's method for calculation of fire flows consider the square footage, type of construction, type of occupancy, exposure, and communication of the building to be protected. The required fire flow ("F") is determined as follows where:

A = effective area
C = construction coefficient*
O = occupancy factor*
E = exposure factor*
M = communication factor*
F = required flow

$$F = 18(O)(E)(M)(C)(\sqrt{A})$$

The effective area is the sum of 100% of the ground floor and 50% of all additional floors. The final result is rounded to the nearest 250 gpm up to 2500 gpm and to the nearest 500 gpm beyond 2500 gpm.

*See the ISO Fire Suppression Rating Schedule for details on calculation.

Residential Construction

For one and two family dwellings not exceeding two stories in height, the following fire flows shall be used.

Distance between buildings	Required fire flow
Over 100 feet	500 gpm
31 – 100 feet	750 gpm
11 – 30 feet	1000 gpm
10 feet or less	1500 gpm

Commercial Construction

Maximum square footage by construction type and gpm fire flow (without modification for occupancy and exposures)

GPM	Fire Resistive	Non-Combustible	Ordinary	Frame
1500	22,611	12,719	8,140	3,618
1750	30,109	16,936	10,839	4,817
2000	38,678	21,756	13,924	6,188
2250	48,319	27,179	17,395	7,731
2500	59,031	33,205	21,251	9,445
3000	83,671	47,065	30,122	13,387
3500	112,598	63,336	40,535	18,016
4000	145,811	82,019	52,492	23,330
4500	183,311	103,112	65,992	29,330
5000	225,098	126,617	81,035	36,016

The square footage is the total of 100% of the first floor and 50% of each additional floor up to and including the 4th floor.

Appendix D is amended to read as follows:

APPENDIX D

FIRE APPARATUS ACCESS ROADS

Section D101 General

D101.1 Scope. Fire apparatus access roads shall be in accordance with this appendix and all other applicable requirements of the *International Fire Code*.

Section D102 Minimum specifications

D102.1 Grade. Fire apparatus access roads shall not exceed 10 percent in grade.

Exception: Grades steeper than 10 percent as approve by the fire chief.

D102.2 Turning radius. The minimum turning radius shall be determined by the fire code official.

D102.3 Dead Ends. Dead-end fire apparatus access roads in excess of 150 feet shall be provided with width and turnaround provisions in accordance with Table D102.3.

Section D103 Aerial Fire Apparatus Access Roads

D103.1 Where required. Buildings or portions of buildings or facilities exceeding 30 feet (9144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.

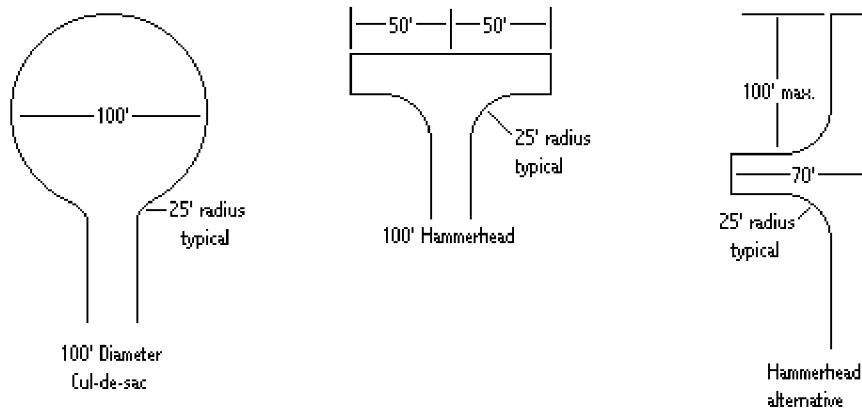
D105.2 Width. Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925 mm) in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height.

D105.3 Proximity to building. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572 mm) and a maximum of 30 feet (9144 mm) from the building, and shall be positioned parallel to one entire side of the building.

Table D102.3 Requirements for Dead-end Fire Apparatus Access Roads

Length (feet)	Width (feet)	Turnarounds required
0-150	20	None required
151-500	20	Shown in Figure D102.3
501-750	24	Shown in Figure D102.3
Over 750	Special approval required	

Figure D102.3 Dead-end Fire Apparatus Access Road Turnaround



Sec. 38.054. Violations declared nuisances: extraterritorial application.

(a) The following are declared public nuisances:

- (1) The sale, possession, storage, discharge, or offer for sale of fireworks; or
- (2) Any violation of this article which poses a serious danger to the safety of persons or property.

(b) It is unlawful for a person to create or maintain a public nuisance, or to engage in any activity that constitutes a public nuisance, within the city limits or within 5,000 feet of the city limits.

Sec. 38.055. Motor vehicle parking.

It is unlawful for a person to store, park or stand a motor vehicle inside a residential unit, a storage facility attached to a residential unit or a stairwell or under a stairway or a balcony, on premises of a multifamily dwelling.

Sec. 38.056. Establishment of motor vehicle routes for transportation of hazardous chemicals.

The U.S. Department of Transportation regulations referenced in chapter 27 of the fire code shall be followed, except that tank vehicles transporting hazardous chemicals to local businesses may take the shortest route to the business served.

Sec. 38.057. New materials, processes or occupancies which may require a permit.

The city manager, the fire chief and the fire marshal may act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials,

processes or occupancies which will require permits, in addition to those described in the fire prevention code. The fire marshal will post a list of any permit requirements in a conspicuous place in his office and distribute copies to interested persons.

Sec. 38.058. Flow meters.

(a) A flow meter device is required on all private water service lines connected to a public water supply, including all separate taps from the public water supply to private property.

(b) Acceptable flow meter device standards and specifications can be obtained from the city engineering department.

(c) The flow meter device must be inspected by a certified flow meter device installer using prescribed forms by the city.

(d) The flow meter device must be protected by a concrete (or comparable quality) vault meeting city engineering department standards.

(e) The flow meter must be installed in the public-right-of way for access by city personnel.

Sec. 38.059. Backflow prevention in fire suppression systems.

Where a private fire suppression or fire sprinkler system exists, a required backflow prevention device may be off-set up to 75 feet from the tap, for the fire system only, with approval of the water purveyor.

Section 38.060. Hazardous materials spills.

(a) Any person who causes or permits a release or spill of hazardous material affecting property within the city or its extraterritorial jurisdiction shall be responsible for the abatement, control, capture and proper disposal of such hazardous material and for all associated costs incurred by the fire department and other city departments and agencies that assist to abate the release or spill.

(b) The abatement activities shall be under the direction and control of the fire chief or his authorized representative. The fire chief may relinquish his direction and control to another agency, firm or other licensed party for the purposes of extended operations, remediation, control, capture or proper disposal of the hazardous materials. The fire chief can reinstate his direction and control at any point in order to protect the health and welfare of persons or property or to expedite the abatement, control, capture or proper disposal of the hazardous material and/or any by-products thereof. It is unlawful for any person to fail to obey an order given by the fire chief at the scene of a hazardous material release or spill.

(c) For purposes of this section, costs incurred by the fire department or other departments of the city shall include, but shall not be limited to, all expenses attributable to the cleanup or abatement of any hazardous materials incident, including costs of equipment operations, materials utilized, specialists, experts, contract labor, overtime costs, costs incurred by area fire departments requested through mutual aid agreement with the city, and any other incidental costs of the city as a result of the incident. Costs do not include fire suppression, rescue, medical treatment and similar services which are within the scope of fire department duties.

(d) Cost recovery shall be in the manner and form designated by the fire department. Any individual, agency, corporation, firm, or party who fails to respond within ten days to a certified notice of collection under this section is in violation of this section.

(e) Any violation of this section punishable by a fine of at least \$1000.00.

(f) The remedies provided by this section is in addition to any other remedies provided by law. Nothing in this section prohibits the city from pursuing other legal actions to recover the costs of abatement.

SECTION 2. The following fees related to the administration of Chapter 38 are set:

**Chapter 38. Fire Prevention and Protection
Fee Schedule**

Fire Sprinkler System Permit

\$150.00 for systems with up to 200 heads
\$0.50 for each additional head
\$1500 maximum fee

Fire Alarm System Permit

\$100.00 for systems with up to 200 initiating and/or signaling devices
\$0.50 for each additional initiating and/or signaling device
\$500 maximum fee

Fixed Pipe Suppression System Permit

\$50.00 per system

Standpipe/Water Supply Permit

\$100 per system when not installed in conjunction with new building

construction

Smoke Control System Permit

\$75.00 for each system

Flammable or Combustible Liquid Tanks Permit

\$120.00 for each system

Preliminary Plan Review

\$60.00 per hour for the preliminary review of plans, which have not been submitted for approval and for which no permit has been issued

Re-inspection/Retest

\$30.00 for each re-inspection. This fee shall be paid before any subsequent inspections are made.

After Hours Fee

\$60.00 per hour if the Fire Official directs an inspector, due to the contractor's or owner's request, to review a plan, conduct an inspection, or witness a test after the normal working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. If the inspector is recalled from off-duty, the minimum charge is for two hours. This fee must be paid before the city releases public utilities and before the city issues a Certificate of Occupancy.

License Inspections

State licensed facilities that require annual fire inspections for operational permits. Non-profit or government organizations are exempt from this section.

Daycares	\$50.00
Nursing or care centers	\$150.00
Hospitals	\$200.00
Institutional restrained	\$200.00
Licensed in home facilities	\$50.00
Foster homes or adoption centers	exempt

SECTION 3. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance

will continue in force if they can be given effect without the invalid portion.

SECTION 4. All ordinances and resolution or parts of ordinances or resolutions in conflict with this ordinance are repealed.


SECTION 5. Any person violating any provision of this ordinance commits a misdemeanor and is subject to the penalty provided in Section 1.015 of the San Marcos City Code upon conviction.

SECTION 6. This Ordinance will take effect 10 days after the date of its final passage, and the City Secretary will publish notice of its adoption in a newspaper of general circulation in the City.

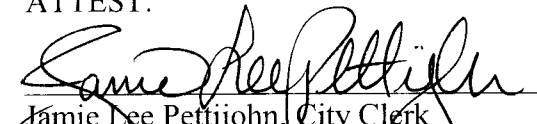
PASSED AND APPROVED on first reading on March 3, 2015.

PASSED AND APPROVED on second reading on March 17, 2015.

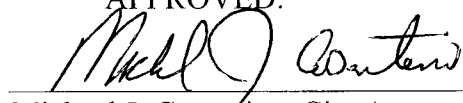
PASSED, APPROVED AND ADOPTED on March 17, 2015.


Daniel Guerrero, Mayor

ATTEST:


Jamie Lee Pettijohn, City Clerk

APPROVED:


Michael J. Cosentino, City Attorney



Legislation Text

File #: ID#19-112, **Version:** 1

AGENDA CAPTION:

Receive a Staff presentation regarding the Sustainability and Clean Air Initiative for the City of San Marcos, and provide direction to the City Manager.

Meeting date: April 2, 2019

Department: Public Services - Conservation Coordinator

Amount & Source of Funding

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

Fiscal Note:

Prior Council Action: Please see below in background.

City Council Strategic Initiative: [Please select from the dropdown menu below]

N/A

Choose an item.

Choose an item.

Comprehensive Plan Element (s): [Please select the Plan element(s) and Goal # from dropdown menu below]

- ☐ Economic Development - Choose an item.
- ☒ Environment & Resource Protection - Pro-active policies that encourage recycling, resource, and energy efficiency
- ☐ Land Use - Choose an item.
- ☐ Neighborhoods & Housing - Choose an item.
- ☐ Parks, Public Spaces & Facilities - Choose an item.
- ☐ Transportation - Choose an item.
- ☐ Not Applicable

Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]

Choose an item.

Background Information:

October 2017 - Council discussion regarding the US Conference of Mayors Climate Action Agreement. Consider creating a San Marcos Climate Action Plan to reduce GHG emissions and impacts by setting benchmarks and expanding existing programs.

Council Direction - Measure City of San Marcos GHG emissions.

August 2018 - Council workshop on municipal GHG inventory.

Council Direction - develop and recommend targets for GHG reductions.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Click or tap here to enter text.

CITY COUNCIL WORKSHOP

SUSTAINABILITY / CLEAN AIR INITIATIVE

Tom Taggart / Jan Klein
Tuesday, April 2, 2019

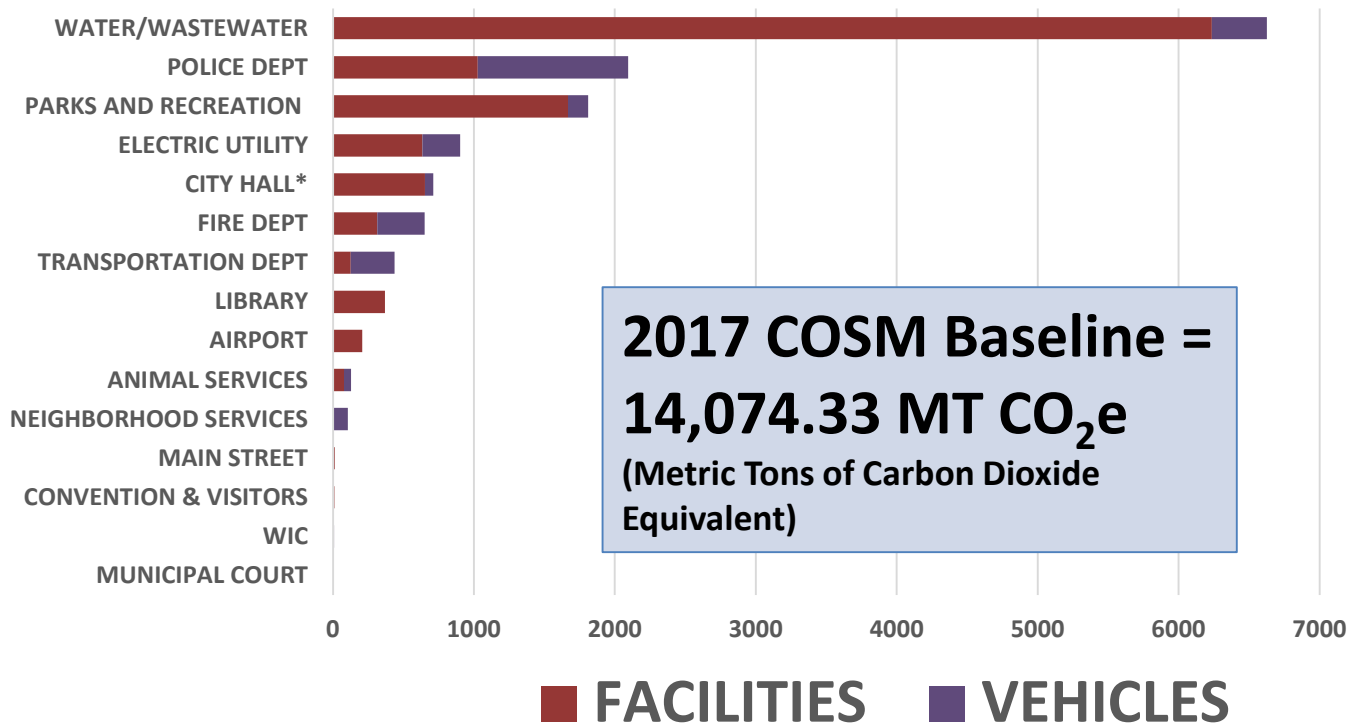
Purpose of Workshop

- ***Present information/staff recommendation on City Greenhouse Gas (GHG) Emission Footprint reduction elements, target levels and schedule***
- ***Direction on next steps***

BACKGROUND

- October 2017 – Council discussion regarding the US Conference of Mayors Climate Action Agreement.
 - Consider creating a San Marcos Climate Action Plan to reduce GHG emissions and impacts by setting benchmarks and expanding existing programs.
 - Council Direction - Measure City of San Marcos GHG emissions.
- August 2018 – Council workshop on municipal GHG inventory.
- *Council Direction – develop and recommend targets for GHG reductions.*

MUNICIPAL GHG INVENTORY



* City Hall includes departments at City Hall complex (CM, City Clerk, Legal, HR, Finance, IT, Planning, Engineering/CIP, Equipment Services, etc)

REVIEW OF COSM ACTIONS WHICH HAVE REDUCED GHG EMISSIONS (already included in 2017 Baseline)

- ☑ Building efficiency – HVAC AND LIGHTING RETROFITS 2010
- ☑ Streetlight retrofits (LEDs) – COMPLETE 2018
- ☑ Treatment plant upgrades – AIR-BEARING BLOWERS
- ☑ Fleet – PD FOOT/BIKE PATROLS; HYBRIDS; E85s
- Waste to energy cogen – NO DIGESTERS

GHG EMISSION REDUCTION MEASURES RECOMMENDED

- Implement Reclaim Water for irrigation at City facilities
- Evaluate Fleet purchases for Electric Vehicle Cost Benefit
- Evaluate LEED/Building Efficiency Cost/Benefit for new City facility construction (Budget Capacity)
- Evaluate site specific solar installation Cost/Benefit for new City facility construction (Budget Capacity)
- Implement Solar Purchase Power Agreement when appropriate

CITY FACILITIES RENEWABLE ENERGY ESTIMATES

- Library Expansion w/ 710 KW solar:
 - saves 637 MT CO₂e = **4.5% savings from Baseline**
- SMPD w/ 125 KW solar:
 - saves 112 MT CO₂e = **0.8% savings from Baseline**
- New Public Services Building w/ 1,420 KW solar:
 - Saves 1274 MT CO₂e = **9.1% savings from Baseline**
- New City Hall/Municipal Building w/ 710 KW solar:
 - Saves 637 MT CO₂e = **4.5% savings from Baseline**
- Fire Stations 3, 4 and 5 w/ 351 KW solar:
 - Saves 307 MT CO₂e = **2.2% savings from Baseline**

Current cost for solar is \$2 - \$2.50 per watt; est. cost for all projects is \$4.9 M, ROI 16 years. **Solar is not included in current building cost estimates or bond funding.**

RENEWABLE WIND PROJECT

- City has already signed contract for supply of 41,707 Megawatt Hours (MWH)/year.
- Use 23,340 MWH to offset ALL COSM GHG emissions (includes vehicles):
 - Saves 14,074 MT CO₂e = 100% savings from Baseline
 - 18,357 MWH still available for community use
- *Application of renewable energy to City GHG reductions is a common methodology for reaching target goals*

RECOMMENDED TARGET to REDUCE MUNICIPAL GHG EMISSIONS

Reduction Target	
2017	Baseline
2022	100%

FUTURE PROPOSED SOLAR POWER PURCHASE AGREEMENT (PPA)

- Contract would begin in 2022.
- San Marcos projected share of solar plant output is 84,927 MWH/year.
- 39,558 MWH of that can be used in San Marcos (without exceeding the LCRA 15% Intermittent Progressive Power Generation (IPPG) cap.
- Remaining 45,369 will be sold to the grid but will be available to San Marcos for future growth.
- Would save 23,854 MT CO₂e = **169.5% savings from Baseline**

SUMMARY/FURTHER ACTIONS

- Participation in new regional Clean Air Coalition (CAC) 2019-2023 air quality plan?
- CAPCOG has requested COSM to pay \$9994 to support implementation of the regional CAC 2019-2023 air quality plan?
- Trent renewable wind project alone can offset 100% of Municipal GHG emissions; Council adoption of 100% reduction in municipal GHG emissions through wind project?
- Additional measures (building efficiency, site-specific solar) can be implemented at a cost. These costs are not currently included in building cost estimates or bond funding. Council adoption of policies for building efficiency and site-specific solar?

Tonight's Agenda

- 1. Appoint Council Sustainability Committee**
- 2. Determine and agree on Committee Charge**

-DISCUSSION-

-QUESTIONS-

-DIRECTION-



Legislation Text

File #: ID#18-978, **Version:** 1

AGENDA CAPTION:

Receive a Staff presentation and hold discussion regarding shared mobility platforms, specifically dockless electric scooters, and provide direction to Staff.

Meeting date: April 2, 2019

Department: City Managers Office, Bert Lumbreras

Amount & Source of Funding

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

Fiscal Note:

Prior Council Action: N/A

City Council Strategic Initiative:

Multi Modal Transportation

Comprehensive Plan Element (s):

- ☐ Economic Development
- ☐ Environment & Resource Protection
- ☐ Land Use
- ☐ Neighborhoods & Housing
- ☐ Parks, Public Spaces & Facilities
- ☒ Transportation - Choose an item.
- ☐ Not Applicable

Master Plan:

Transportation Master Plan

Background Information:

Click or tap here to enter text.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Discuss and seek direction on sidewalk and infrastructure network, peer city approaches to electing scooters and if Council wishes to allow electric scooters (any combination of bikes, electric-assist bikes, and electric scooters) in the City of San Marcos city limits, and on the campus of Texas State University.

City Council Work Session:

Shared Mobility / E-scooters



Shared Mobility with E-Scooters

- E-scooters emerged in September 2017.
- Small, battery-powered, two-wheel scooters to rent for one-way trips.
- App-based business model, same as dockless bike share.
- Rapid evolution of the industry, many competitors.

Observations – Other cities:

- Increase in user, pedestrians and traffic-related injuries and deaths.
- Illegal sidewalk riding creates pedestrian conflict.
- Inappropriate e-scooter parking creates hazards and accessibility constraints.
- Parks and Park Trail system impacts.
- Use of streets creates traffic conflicts and challenges with a lack of proper infrastructure.

Legislation and Authority

- HB4499 & SB549: are identical bills and the last page clearly allows municipalities to restrict and regulate the use of scooters.

“A county or municipality may prohibit the operation of a motor-assisted scooter on a street, highway, or sidewalk if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.”
- **SB2715**: calls for a study to be completed and presented to the legislature by end of 2020.
- City Authority: The current authority to ban is based on San Marcos being a home rule city and the fact that there is no law that currently prohibits a home rule city from enacting a ban. In other words, San Marcos has the authority and will continue to have it unless/until the legislature takes it away by adoption of a preemption statute.

City / Texas State Partnership

1. Coordinated Transit Plan.
2. Joint RFP for single provider for bike share program.
3. Working collaboratively with City on E-Scooters.

Council Options:

1. Establish regulations and a pilot program.
2. Amend VeoRide bicycle contract to include e-scooters.
3. Issue Joint RFP for single provider for e-scooter program.
4. Prohibit e-scooters in the public right-of-way and sidewalks.
5. Take no action.

Staff Recommendation

- Staff recommends prohibiting scooters in the public right-of-way streets and sidewalks.

Questions / Discussion



City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Legislation Text

File #: ID#19-117, **Version:** 1

Executive Session in accordance with Section 551.087, Economic Development and Section 551.071, Consultation with Attorney, to receive a staff briefing and deliberate regarding the creation of the Hays County Municipal Utility District No. 8.